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THE WORKS OF JAMES BUCHANAN

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383
No.

THE WORKS
OF
JAMES BUCHANAN

Comprising his Speeches, State Papers,
and Private Correspondence

Collected and Edited

By

JOHN BASSETT MOORE

VOLUME VII
1846-1848



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THE WORKS
OF
JAMES BUCHANAN

TO MR. McLANE.¹

(No. 32.)

DEPARTMENT OF STATE,
WASHINGTON, 6th June, 1846.

LOUIS McLANE, ESQRE.,
&c., &c., &c.

SIR:

Referring to your despatch No. 45, dated on the 18th ultimo, which conveyed the melancholy intelligence of the death of Mr. Gansevoort Melville, late Secretary to the Legation at London, and also informed me of the measures adopted by you during the sickness, and on the demise, of that gentleman, the Department is pleased to learn that the deceased had every attention and kindness shewn to him which his case demanded.

The event of a Secretary of a Legation of the United States dying at his post is, as you state, new in the annals of this Government. In cases of the decease of Ministers and Chargés d'Affaires of the United States abroad, it has been the custom of this Government to allow reasonable charges for funeral expenses. In cases where the body of the deceased has been brought to the United States for interment, the allowance has been not for the expenses incident to the removal of the remains, but for those which would have accrued had the burial taken place where the deceased had been stationed. I cannot perceive any reason why the same rule should not govern in the case of the death of a Secretary of Legation as in that of a Minister or Chargé d'Affaires: I am, therefore, inclined to adopt the same rule as to the former which has prevailed with regard to the

¹ MSS. Department of State, Instructions, Great Britain, XV. 311.

latter. The remains of Mr. Melville having been transmitted to this country for interment, I can allow only such expense as would have accrued had he been buried in London. This, as you state, "could not have been less than £50." You are therefore authorized to charge that sum in your account of contingent expenses of the Legation for the funeral expenses of Mr. Melville; and as it appears that the funds left by that gentleman have been applied to defray these expenses to the exclusion of those attendant upon his sickness, the fund now appropriated may be applied to the payment of the latter.

An extension of your credit on the Bankers of the United States to the amount indicated is herewith transmitted to you, to be used if necessary.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. McLANE.¹

(No. 33.)

DEPARTMENT OF STATE,

WASHINGTON, 6th June, 1846.

SIR: I transmit to you, herewith, a copy of the projet of a convention delivered to me by Mr. Pakenham, this morning, for the adjustment of the Oregon question, together with a copy of the protocol of the proceeding. This being the regular day for the meeting of the Cabinet, the subject was brought before them by the President. The result was a determination on his part to submit the projet to the Senate for their previous advice. This will be done as soon as the proper message can be prepared, and the necessary papers copied.

I am, Sir, with great respect,

Your obedient servant,

JAMES BUCHANAN.

LOUIS McLANE, ESQRE., &c., &c., &c.

¹ S. Doc. 489, 29 Cong. 1 Sess. 48; Instructions, Great Britain, XV. 312.

TO MR. McLANE.¹*Private & Confidential.*

WASHINGTON 6 June 1846.

MY DEAR SIR/

I have but little time to scribble you a private letter before the closing of the Mail to go by the Great Britain.

The President has determined to submit Lord Aberdeen's projet to the Senate. He had no alternative as you know between this & its absolute rejection.

The proviso to the first article would seem to render it questionable whether both parties would have the right to navigate the Strait of Fuca, as an arm of the Sea, north of the parallel of 49° ; neither does it provide that the line shall pass through the Canal de Arro, as stated in your Despatch. This would probably be the fair construction.

The articles relating to the possessions of British occupants South of 49° is vague & indefinite ; & in order to prevent disputes between the two Governments hereafter as to the extent of these possessions, it would seem to be a prudent precaution to provide some means of ascertaining the rights of these occupants respectively. There is no reciprocal provision in the treaty for American settlers North of 49°. There may be none there; but yet such a provision would give the Convention a fairer appearance.

The right of the Hudson's Bay Company to the navigation of the Columbia presents the important difficulty. It is considered doubtful by the President and several members of the Cabinet whether under the terms of the projet this right would not expire upon the termination of the existing charter of that Company in 1859.

The President's message will re-iterate the opinions expressed in his annual message in favor of our title to 54° 40'; but in consideration of & in deference to the contrary opinions expressed by the Senate, his Constitutional advisers, he submits the projet to them for their previous advice. He may probably suggest some modifications.

What the Senate may do in the premises is uncertain. There undoubtedly is in that Body a Constitutional majority in

¹ Buchanan Papers, Historical Society of Pennsylvania; Curtis's Buchanan, I. 559.

favor of settling the question on the parallel of 49 to the Straits of Fuca. The question of the perpetual navigation of the Columbia is & ought to be the point of difficulty. Should the Senate modify this article so as to limit the right to the termination of the existing charter of the Hudson's Bay Company, I can scarcely suppose that this modification would be rejected by the British Government.

I sincerely hope that you may not think of leaving London until this question shall be finally settled: & I am happy to learn from Robert that your continuance in London will not be prejudicial to your private interest at home.

With my kindest respects to Mrs. M'Lane, I remain sincerely & respectfully your friend,

JAMES BUCHANAN.

HON: LOUIS M'LANE.

MESSAGE OF PRESIDENT POLK

ON A TREATY WITH HESSE-CASSEL.¹

[June 6, 1846.]

TO THE SENATE OF THE UNITED STATES:

I herewith communicate to the Senate for its consideration a convention signed on the 2d day of May, 1846, by the minister of the United States at Berlin with the plenipotentiary of Hesse-Cassel, for the mutual abolition of the *droit d'aubaine* and duties on emigration between that German state and the United States. And I communicate, with the convention, an explanatory despatch of the minister of the United States, dated on the same day of the present year, and numbered 284.

JAMES K. POLK.

WASHINGTON, June 6, 1846.

TO MR. BIDLACK.²

(No. II.)

DEPARTMENT OF STATE,

WASHINGTON, 8th June, 1846.

To B. A. BIDLACK, ESQUIRE,
&c. &c. &c.

SIR:

The New England Marine Insurance Company of Boston having transmitted to this Department the documents necessary to show that they are the representatives of the owners of the

¹ Senate Executive Journal, VII. 87.

² MSS. Department of State, Instructions, Colombia, XV. 104.

schooner Yankee, when you receive from the Government of New Granada the amount stipulated to be paid for that vessel and her freight, you will remit the same to the order of this Department, so that it may be paid over to the Insurance Company.

I am, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. NAAR.¹

DEPT. OF STATE,

DAVID NAAR ESQR.

9 June 1846.

U. S. Com. Agt.

St. Thomas.

SIR.

I have recd. your letter of the 18th of May last, in which you report, that Daniel Hallett, Master of the Brig "Pensacola" of Portland, Maine, arrived in your port on the 8th of that month, & altho' specially required by you so to do, he refused to deposit his Register with you, according to the provisions of the 2d section of the act of the 28th of Feby. 1803. You state, that in justification, he "claimed that as he had not transacted any business there, he was not bound to deposit his Register." You conclude by urging that a prosecution be instituted against him for this alleged violation of law.

The Question presented by the case you report is, What circumstances under a proper construction of the act referred to are necessary to constitute that "arrival at a foreign port" upon the occurrence of which the Act makes it obligatory upon the Master of a vessel to deposit his Register? In a similar case, this Department has had occasion to present that question to the Attorney General of the U. S., & from his opinion now on file, the following extract is transmitted for your information & government on similar occasions. "It is very obvious that Congress required the papers of an American vessel in a foreign port to be delivered to the Consul, only, where it was necessary to make an entry at the Custom House. It is on the Master's producing a clearance, that the Consul is to return him his papers, & there can be no clearance, where there is no entry. If an American vessel

¹ MSS. Department of State, Despatches to Consuls, X. 370.

arrive at her port of discharge, or, for any reason other than for the purpose of trading with the whole or a portion of her cargo, she shall remain as long as by the law of the Country to require it, she must enter at the Custom House of such port, & in all such cases the Master must deposit his Register. But the law does not extend the duty beyond this. A requisition of a deposit of papers in all cases of arrival, where by the local laws an entry is not necessary, & where there is no trading or purpose to trade, might add to Consular emoluments, but would prove extremely embarrassing to the Commercial interest."

On testing the case of Capt. Hallett as reported by you, by a fair application of the principles laid down in the foregoing Extract, I am not able to perceive, that he has justly incurred the penalty of the law referred to, by his refusal, under the circumstances stated by him & admitted by you, to deposit his Register.

I am Sir &c.

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK

ON A TREATY AS TO OREGON.¹

[June 10, 1846.]

TO THE SENATE OF THE UNITED STATES:

I lay before the Senate a proposal, in the form of a convention, presented to the Secretary of State on the sixth instant, by the envoy extraordinary and minister plenipotentiary of her Britannic Majesty, for the adjustment of the Oregon question, together with a protocol of this proceeding. I submit this proposal to the consideration of the Senate, and request their advice as to the action which, in their judgment, it may be proper to take in reference to it.

In the early periods of the government, the opinion and advice of the Senate were often taken in advance upon important questions of our foreign policy. General Washington repeatedly consulted the Senate, and asked their previous advice upon pending negotiations with foreign powers; and the Senate in every instance responded to his call by giving their advice, to which he always conformed his action. This practice, though rarely resorted to in latter times, was, in my judgment, eminently wise, and may, on occasions of great importance, be properly revived. The Senate are a branch of the treaty-making power; and, by consulting them in advance of his own action upon important measures of foreign policy which may ultimately come before them for their consideration, the President secures harmony of action between that body and himself. The Senate are, moreover, a branch of the war-making power, and it may be eminently proper

¹ S. Doc. 489, 29 Cong. 1 Sess. 1.

for the Executive to take opinion and advice of that body in advance upon any great question which may involve in its decision the issue of peace or war. On the present occasion the magnitude of the subject would induce me, under any circumstances, to desire the previous advice of the Senate; and that desire is increased by the recent debates and proceedings in Congress, which render it, in my judgment, not only respectful to the Senate, but necessary and proper, if not indispensable, to insure harmonious action between that body and the Executive. In conferring on the Executive the authority to give the notice for the abrogation of the convention of 1827, the Senate acted publicly so large a part, that a decision on the proposal now made by the British government, without a definite knowledge of the views of that body in reference to it, might render the question still more complicated and difficult of adjustment. For these reasons I invite the consideration of the Senate to the proposal of the British government for the settlement of the Oregon question, and ask their advice on the subject.

My opinions and my action on the Oregon question were fully made known to Congress in my annual message of the second of December last; and the opinions therein expressed remain unchanged.

Should the Senate, by the constitutional majority required for the ratification of treaties, advise the acceptance of this proposition, or advise it with such modifications as they may, upon full deliberation, deem proper, I shall conform my action to their advice. Should the Senate, however, decline by such constitutional majority to give such advice, or to express an opinion on the subject, I shall consider it my duty to reject the offer.

I also communicate herewith an extract from a despatch of the Secretary of State to the minister of the United States at London, under date of the 28th of April last, directing him, in accordance with the joint resolution of Congress "concerning the Oregon Territory," to deliver the notice to the British government for the abrogation of the convention of the 6th of August, 1827; and also a copy of the notice transmitted to him for that purpose, together with extracts from a despatch of that minister to the Secretary of State, bearing date on the 18th day of May last.

JAMES K. POLK.

WASHINGTON, June 10, 1846.

TO MR. WARD.¹

DEPT. OF STATE,
June 11. 1846.

CHARLES WARD ESQR.

U. S. Consul Zanzibar.

SIR.

I have received your Despatch No. 2, announcing that on the 24th of Jany. last you entered on the duties of your office, & transmitting an inventory of the archives of your Consulate.

¹ MSS. Department of State, Despatches to Consuls, X. 372.

No appointment has been made to supply the place of Sied Ben Calfaun, deceased, late Consul of the U. S. at Muscat. The circumstances you state rendering it impossible to select a proper person being a resident of that country, connected with the distance from our own, & the few inducements it could offer to a citizen here, will probably induce the President to suppress the Consulate, whereby it will fall within your jurisdiction. The provision which you state you have made for the security & preservation of the archives, until the views of the Department could be communicated, was highly proper, & is approved.

The friendly feelings towards the Government of the U. S., expressed to you officially by the Governor of the place on your visit to Massengo, & the marked preference which the Queen of Madagascar is pleased to manifest in favor of the American flag over that of other nations, afford gratifying evidence of increasing respect for our Country & its resources. On all proper occasions you will reciprocate these sentiments.

Referring to your request to be instructed "in regard to your intercourse with his Highness," I have to state, that in the spirit of the General Instructions, communicated to you, on your appointment, you will find every guide which can be required to regulate your conduct. Strict conformity thereto on all occasions & a proper manifestation of a desire at all times to conciliate the respect & good will of the Authorities where you reside will ensure a satisfactory discharge of your duties, & enable you to render most essential service to your country. It may be proper to add, that as this Department possesses no power to appropriate the public funds to such an object, you will be careful to incur no expense in your intercourse with the Authorities at Zanzibar.

You also request to be instructed "as to the duty of Consuls in regard to vessels engaged in the Slave trade wearing the American flag." By reference to the General Instructions to Consuls, &c., page 20, art. 35, you will perceive that in all cases of "piracy, mutiny, or any other offence against the laws of the U. S.", the duties of Consuls are clearly set forth, & to them your attention is specially invited. Instructions were transmitted to the Agent of the Department at New York under date the 28th of May last, to forward to the care of Israel Ward, Jr., of Salem, Mass., two flags, as requested by you for the use of your Consulate.

I am, Sir, &c.

JAMES BUCHANAN.

TO MR. WAGNER.¹

DEPARTMENT OF STATE,

WASHINGTON, June 12. 1846.

W. F. WAGNER, Esq.

(Marshal of the U. S. for the district of
Louisiana, New Orleans.)

SIR:

I have received your letter of the 29th ultimo. From this it appears, that after the blockade of the mouth of the Rio Grande had been established, the Mexican schooner Juanita "was boarded by the United States Schooner Flirt by command of General Taylor, her crew taken out, and vessel and cargo sent round to this port (New Orleans)."

You also inform me, that no Prize proceedings having been instituted by the captors, you had, under the order of Judge McCaleb, taken possession of the vessel and intend to seize the Cargo; and you now desire instructions as to what course you ought to pursue in the premises.

If the captors of the vessel should not think proper to adopt the proper proceedings to ascertain whether she is a lawful prize, and have abandoned any right which the capture might confer upon them, then she, together with her cargo, must be considered as Mexican property found in the port of New Orleans after the existence of war between the two countries. In this condition she is not liable to confiscation, under any act of Congress; and without such an act it would seem to have been virtually decided by the Supreme court, in the case of Brown v. the United States (8 Cranch's Reports, page 110) that she cannot be condemned as enemy's property. Two American vessels having been permitted to leave Vera Cruz since the existence of the present war, the President is not inclined to urge a condemnation of the Mexican property under the peculiar circumstances of the present case.

In answer to the subsequent part of your letter, I would observe, that the Collector of the Port has no right to grant clearances either to Neutrals or Mexican vessels for a Mexican Port, unless in cases embraced by the 26th article of our Treaty with Mexico of April 1831. This portion of your letter, however, has been referred to the Secretary of the Treasury, who will give the Collector the necessary instructions on the subject.

I am, &c. JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 29.

TO MR. CLAY.¹

No. 2.

DEPARTMENT OF STATE,
WASHINGTON, 13th June, 1846.

JOHN RANDOLPH CLAY, ESQRE.

SIR: The Oregon question may now be considered as settled. On the 6th instant, Mr. Pakenham presented to me the projet of a convention for its adjustment: and the President, after mature deliberation, determined, in pursuance of several precedents adopted in the early history of our Government, to submit it to the Senate for their previous advice. This was done, by a confidential message, on the 10th instant, of which I transmit you a copy. On the 12th instant, the Senate adopted a resolution, by a vote of 37 to 12, of which the following is a copy:

“Resolved, (two-thirds of the Senators present concurring,) That the President of the United States be, and he is hereby, advised to accept the proposal of the British Government accompanying his message to the Senate, dated 10th June, 1846, for a convention to settle boundaries, &c., between the United States and Great Britain, west of the Rocky or Stony Mountains.”

The convention will be signed by the Plenipotentiaries on Monday next; and, in the course of the next week, will doubtless be ratified by and with the advice and consent of the Senate.

The terms are, an extension of the 49th parallel of latitude to the middle of the channel which separates the continent from Vancouver’s Island; thence along the middle of this channel and the Strait of Fuca, so as to surrender the whole of that Island to Great Britain.

The navigation of the Columbia is conceded, not to British subjects generally, but to the Hudson’s Bay Company and those trading with it. To this concession there is no express limitation of time; but it was believed by the Senate that, under the true construction of the projet, this grant will expire on the 30th May, 1859, the date of the termination of the existing license to that company, to trade with the Indians, &c., &c., on the Northwest Coast of America.

I need not enumerate the other less important particulars.

I am, Sir, respectfully, your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Russia, XIV. 72. Inaccurately printed in Curtis’s Buchanan, I. 560.

TO MR. McLANE.¹

(No. 34.)

DEPARTMENT OF STATE,

WASHINGTON, 13th June, 1846.

SIR: The President communicated to the Senate, on the 10th instant, a confidential message, of which I transmit you a copy, asking their previous advice in regard to the projet of a convention for the adjustment of the Oregon question, delivered to me by Mr. Pakenham on the 6th instant.

On yesterday the Senate adopted the following resolution:

"Resolved, (two-thirds of the Senators present concurring), That the President of the United States be, and he is hereby, advised to accept the proposal of the British Government accompanying his message to the Senate, dated 10th June, 1846, for a convention to settle boundaries, &c., between the United States and Great Britain, west of the Rocky or Stony Mountains."

The vote of the Senate stood 37 to 12.

I have learned from the best sources that the Senate gave this advice under the conviction that, by the true construction of the second article of the projet, the right of the Hudson's Bay Company to navigate the Columbia would expire with the termination of their present license to trade with the Indians, &c., on the Northwest Coast of America, on the 30th May, 1859. In conversation with Mr. Pakenham to-day, I communicated this fact to him, and requested him to state it in his despatch to Lord Aberdeen.

The treaty will be signed and sent to the Senate on Monday next: and it is more than probable that they will, in some form or other, place upon their records their understanding of its true construction in this particular.

I am, Sir, respectfully

Your obedient servant,

JAMES BUCHANAN.

LOUIS McLANE, ESQRE., &c. &c., &c.

¹ MSS. Department of State, Instructions, Great Britain, XV. 312; S. Doc. 489, 29 Cong. 1 Sess. 48.

MESSAGE OF PRESIDENT POLK

ON THE OREGON TREATY.¹

[June 16, 1846.]

TO THE SENATE OF THE UNITED STATES:

In accordance with the resolution of the Senate of the 12th instant, that "the President of the United States be, and he is hereby, advised to accept the proposal of the British government, accompanying his message to the Senate dated 10th June, 1846, for a convention to settle boundaries, &c., between the United States and Great Britain west of the Rocky or Stony mountains," a convention was concluded and signed on the 15th instant, by the Secretary of State on the part of the United States, and the envoy extraordinary and minister plenipotentiary of her Britannic Majesty on the part of Great Britain.

This convention I now lay before the Senate for their consideration, with a view to its ratification.

JAMES K. POLK.

WASHINGTON, June 16, 1846.

TO MR. JOHNSON.²

DEPARTMENT OF STATE,

WASHINGTON, June 18. 1846.

HON. CAVE JOHNSON
(P. M. General)

SIR:

I have the honor to communicate to you, at his request, the copy of a note of the 17th instant, addressed to me, by Colonel Beaulieu, the minister resident of Belgium.

In performing this duty, permit me to commend to you the propriety of directing the steam packets recently authorized by law, to touch at Antwerp on their route to Bremen. After the most careful consideration, I have arrived at the conclusion that this would tend greatly to advance the commercial interests of both countries, as well as to increase the amount received for postage, whilst the brief delay which it would occasion could be productive of no material injury.

I am &c.

JAMES BUCHANAN.

¹ S. Doc. 489, 29 Cong. 1 Sess. 5.² MSS. Department of State, 36 Domestic Letters, 32.

TO MR. NAAR.¹

DEPT. OF STATE, June 19th, 1846.

DAVID NAAR ESQR. U. S. Coml. Agt.

St. Thomas.

I have now to acknowledge the receipt of your despatch No. 10, in which you say, referring to your No. 8, that you omitted to state "that the said vessel was entered at the Custom House by the said Hallett in person." This fact, so material, as you will observe, on reference to the opinion above cited, to the issue in question, clearly brings the case of Capt. Hallett within the provisions of the 2d section of the Act of 1803; & I should not hesitate to cause the institution of the proper proceedings to recover in your name the penalty to which he is amenable, had you furnished the Department with the legal evidence to establish the requisite facts. This, so far as may be in your power, I have to request that you will do without delay.

By the Circuit Court of the U. S. for the State of Massachusetts, in a similar case it has been held "that the certificate of the Consul was not admissible evidence of the arrival or departure of the vessel." You will therefore see the necessity of transmitting documentary evidence from the Custom House duly authenticated, or such other testimony of that character, as may be within your reach, to establish those facts. The refusal of the Captain to deposit his Register with you, in compliance with law & your demand, as stated by you, you will also sustain by the best evidence which the nature of the case admits; & as, in the proceedings to be instituted, you will appear as Plaintiff on the record, it is advisable that the proof should, as far as possible, be other than your own.

I am Sir &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Despatches to Consuls, X. 374.

TO GENERAL ARMSTRONG.¹

DEPARTMENT OF STATE,
WASHINGTON, 22d June, 1846.

GENERAL ROBERT ARMSTRONG,
&c., &c., &c.

SIR:

The public service requiring that a bearer of despatches should be sent to London, charged, among other things, with the ratified copy of the treaty recently concluded with the Minister of Her Britannic Majesty, for the adjustment of the Oregon question, I have thought proper to appoint you to that service. If you accept the appointment, you will repair to New York, without unnecessary delay, and embark in the steamer "Great Western," which sails for Liverpool on the 25th instant. Upon your arrival at the last named port, you will immediately proceed to London, where you will deliver to the Honble. Louis McLane, the Minister of the United States in that city, the despatches herewith committed to your care, together with the ratified copy of the treaty to which reference has already been made.

Should there be, in the opinion of Mr. McLane, a reasonable prospect of the British Government ratifying this treaty in time for the exchange copy to be returned to the United States by the steamer of the 19th July from Liverpool, you will wait to bring back the English ratification as far as the latter city. And you will take care that it shall be brought by that packet to the United States in charge of some respectable American citizen, who will, immediately on his arrival at Boston, proceed with it to this city.

The sum of one hundred and sixty dollars, in full, will be advanced to you to defray your necessary travelling and other expenses. No compensation as bearer of despatches can be allowed you without a violation of law, in consequence of your holding the office of Consul at Liverpool.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Great Britain, XV. 314.

TO MR. EVERETT.¹

No. 7.

DEPARTMENT OF STATE,

WASHINGTON, 22nd June, 1846.

A. H. EVERETT, Esq.
&c. &c. &c.

SIR:

In accordance with the request contained in your note of the 17th instant, I transmit, herewith, a (duplicate) full power to negotiate with the Government of Japan.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. GRAHAM.²

DEPARTMENT OF STATE,

WASHINGTON, June 22d, 1846.

DANIEL S. GRAHAM, Esq.
(New Orleans)

SIR:

I have to acknowledge the receipt of your letter of the 9th instant, relative to the seizure of the schooner Susannah at Matamoras. A letter on the same subject, dated 22d April, had been previously received from you. In the present state of our relations with Mexico, I regret that it is not in the power of the Department to make application to that Government for the compensation which you claim. At the proper time your claim shall receive due attention.

In regard to your request for letters of reprisal, I have to remark, that the Executive has no power to grant them without authority from Congress. No act for such a purpose has been passed since that of 8th June, 1812, which was expressly limited to the then existing war with Great Britain.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, China, I. 38.² MSS. Department of State, 36 Domestic Letters, 34.

TO MR. McLANE.¹

(No. 36.)

DEPARTMENT OF STATE,

WASHINGTON, 22d June, 1846.

SIR: The Senate having given its constitutional advice and consent to the treaty concluded on the 15th instant, between the United States and Great Britain, for the adjustment of the Oregon question, the President has ratified it on the part of the Government of the United States, and I now transmit to you the American ratification, to be exchanged against that of Her Britannic Majesty. You will, accordingly, upon the receipt of this despatch, inform Her Majesty's Principal Secretary of State for Foreign Affairs that the treaty has been ratified on our part, and that you are, as you will perceive by the special power which is herewith enclosed, authorized to exchange the ratifications with such person as may be duly empowered for that purpose, on the part of the British Government. As no difficulty or delay in this exchange is anticipated, General Armstrong, who carries out the treaty, has been instructed to wait for, and take charge of, the English ratification, if, in your opinion, there is a prospect of its being obtained in time to be forwarded by the steamer of the 19th July. Should the exchange copy not be received until after that date, you will either avail yourself of some safe private conveyance to forward it to this country, or, to send it to General Armstrong, at Liverpool, for transmission.

I am, Sir, respectfully, Your obedient servant,

JAMES BUCHANAN.

LOUIS McLANE, ESQRE., &c., &c., &c.

¹ MSS. Department of State, Instructions, Great Britain, XV. 315; S. Doc. 489, 29 Cong. 1 Sess. 49.

TO MR. McLANE.¹

(No. 37.)

DEPARTMENT OF STATE,

WASHINGTON, 22d June, 1846.

LOUIS McLANE, ESQRE.,

&c., &c., &c.

SIR:

I have submitted to the President the request contained in your despatch No. 44, of the 18th May last, that you may be permitted to terminate your mission and return home. Whilst he sincerely regrets that the country will lose your valuable services as Minister to Great Britain, he has nevertheless determined to accede to your wishes. In granting your request, he has instructed me to say that he is deeply sensible of the ability, prudence, and discretion with which you have performed the arduous and important duties of your mission.

I transmit to you, herewith, a letter of recall (and an office copy of the same for your own use,) to be presented to the Queen on the occasion of your taking leave of Her Majesty, should an audience be granted to you for that purpose: and, if not, to be communicated to Her Majesty in such manner as shall be most agreeable to her wishes, as they may be made known to you through the Foreign Office.

The President, in directing this letter of recall to be transmitted to you, relies with confidence upon your well-known patriotism, that if any circumstances should become known to you which might render your departure injurious to your country, you will not avail yourself of this permission previous to the arrival of your successor; and, in any event, not before the middle of August. By that time, he hopes that your successor may arrive in London, although he has not yet determined who would be the most suitable person to take your place. In the present state of our relations with Great Britain, he is convinced that your successor ought to reach London, if possible, before your departure, and that he should enjoy all the advantages of an introduction to his new duties, which you can afford him better than any other person.

I am, Sir, with great respect,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Great Britain, XV. 316.

MESSAGE OF PRESIDENT POLK

ON A TREATY WITH NASSAU.¹

[June 23, 1846.]

TO THE SENATE OF THE UNITED STATES:

I herewith communicate to the Senate, for its consideration, a convention concluded by the minister of the United States at Berlin, with the Duchy of Nassau, dated on the 27th May, 1846, for the mutual abolition of the *droit d'aubaine* and taxes on emigration, between that State of the Germanic Confederation and the United States of America; and, also, a despatch from the minister explanatory of the convention.

JAMES K. POLK.

WASHINGTON, June 23, 1846.

TO MR. NAAR.²

DEPT. OF STATE,

DAVID NAAR, ESQR.

24 June, 1846.

U. S. Coml. Agent,
St. Thomas.

SIR.

Your despatch No. 5, wherein came enclosed the official Returns of your Agency to the 31st of Decr. last, together with a communication to the Fifth Auditor of the Treasury, has been received.

In this Despatch you state that "by the 9th section of the act of Congress of the 20th July 1840 entitled an 'Act in addition to the several acts, regulating the shipment & discharge of seamen & the duties of Consuls,' I find, that, upon any well founded complaint of the continuance of a voyage contrary to agreement, or of the fulfilment of contract by '*any mariner*,' the Consul or Commercial Agent shall discharge the mariner if he desire it, & require of the Master an advance of 3 months' wages, as provided in the Act of Feby. 28, 1803. A case has occurred in which it has been questioned whether this act is applicable to the discharge & demand of extra wages for mariners not shipped as *American seamen*. The act of 1803 referred to in that of 1840, relates to '*seamen citizens of the U. States*,' but the act of 1840 refers to a contingency not provided for by the act of 1803, the former being operative on complaint 'that the voyage

¹ Senate Executive Journal, VII. 100.² MSS. Department of State, Despatches to Consuls, X. 376

is continued contrary to agreement or that he has fulfilled his contract,' whereas the latter provides that whenever a ship 'shall be sold in a foreign country, & her company discharged, or when a Seaman or Mariner, a Citizen of the U. S., shall with his own consent be discharged in a foreign country, it shall be the duty of the Master to pay three months' pay over & above the wages which may be due.'

With reference to the point presented by this case you "ask to be instructed, if the act of 1840 is to be literally applied to *any Mariner*, whether American or not."

In reply, I have to state, that whenever, in a law intended for the protection or regulation of Seamen belonging to vessels of the U. S., the words "*any mariner*" occur, they are "to be literally applied," & the provision is to be considered as equally imperative, whether the Mariner be an American citizen or not. The particular provision, now under consideration, however, *so far as regards payment of the three months' wages*, expressly states, that this payment shall be made by the Consul, "as provided in the act of Feby. 28, 1803." That act restricts the obligation to pay the extra wages to those cases in which the Seaman discharged is a Citizen of the U. S.; & consequently this restriction is to be considered as preserved in the present provision of the act of 1840. When the Mariner discharged under this provision is one who is entered on the crew list as a Citizen of the U. S., in every such case, (subject of course to the *proviso* contained in the law) the payment of the extra wages is to be required. When the Mariner discharged is not so entered, this payment is not to be required. In all other respects, however, Mariners of the latter class are equally entitled with those of the former to the protection afforded by this provision of the act: they have the same right to enter the complaint, which the Consul is thereby authorized to entertain from "*any mariner*," & if "the voyage is continued contrary to agreement or he has fulfilled his contract," the Complainant, whether he be an American Citizen or not, is equally entitled to his discharge & to the wages justly earned by him.

I am Sir &c.

JAMES BUCHANAN.

TO THE SPEAKER OF THE HOUSE.¹

DEPARTMENT OF STATE,

WASHINGTON, June 24, 1846.

SIR: Agreeably to the act of March 2, 1799, I have the honor to communicate an abstract of the returns made to this Department by the Collectors of Customs, pursuant to the act of May 28th, 1796, for the relief and protection of American seamen, showing the number of seamen registered in each port of entry of the United States during the year ending September 30th last.

I am, &c.

JAMES BUCHANAN.

HON. SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TO THE SPEAKER OF THE HOUSE.²

DEPARTMENT OF STATE,

WASHINGTON, June 24, 1846.

SIR: Agreeably to the act of March 2, 1819, regulating passenger-ships and vessels, I have the honor to communicate tabular statements, showing the number and designation of passengers who arrived in each collection district of the United States, during the year ending September 30th last, compiled from the returns made to this Department by the collectors in conformity with the provisions of said act.

I deem it proper, also, to remark, that this report would have been transmitted to Congress at an earlier period of the session, but for the failure of some of the collectors to make their returns to this Department in due season.

I am, &c.

JAMES BUCHANAN.

HON. SPEAKER OF THE HOUSE OF REPRESENTATIVES.

¹ H. Doc. 215, 29 Cong. 1 Sess. 1; MS. Report Book, VI. 204.² H. Doc. 216, 29 Cong. 1 Sess. 1; MS. Report Book, VI. 205.

TO MR. ELMORE.¹

DEPARTMENT OF STATE,

WASHINGTON, 26 June 1846.

HON. FRANKLIN H. ELMORE,
(South Carolina)

MY DEAR SIR:

I feel under great obligations to you for your kindness in undertaking to procure for me the services of suitable persons to improve & extend the cultivation of Cotton in the dominions of the Sultan of Turkey.

You are herewith furnished with the copy of a letter from John P. Brown, Esq., then in charge of the Legation at Constantinople, dated on the 5th February, 1846, which will make known to you the Sultan's views and wishes on the subject.

Of the sum of \$2500 placed in my hands for this purpose, \$441 have already been expended in an unsuccessful and unfortunate attempt to execute the wishes of the Sultan. The balance \$2059 remains applicable to this purpose.

You will perceive from the letter of Mr. Brown that the Sultan contemplates that two persons should be employed; and he believes from his communication with Cheffik Bey that \$2000 per annum would be willingly given to each for their services, exclusive of a suitable sum to cover the expense of their return home, at the termination of their contract.

It is presumed that the amount already in my hands will be sufficient to cover the expenses of their journey to Constantinople, together with the cost of the seed and of the agricultural works relating to the culture of Cotton, which it would be proper they should carry with them.

Whilst the Department would be unwilling to enter into any positive contract with the persons whom you may employ, it would furnish them such letters to the American Minister at Constantinople as would doubtless insure to them a liberal compensation. Any expense which you may incur in accomplishing the object of the Sultan will be refunded.

Again expressing my thanks to you for your kindness in undertaking the task, and my confidence in your ability and sound judgment to execute it in the most speedy and satisfactory manner, I remain, Yours respectfully,

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 36.

TO MR. INGERSOLL.¹

DEPARTMENT OF STATE,

WASHINGTON, June 26, 1846.

SIR: I have the honor of enclosing to you the copy of a note which I received yesterday from Mr. Figaniere, the minister of Portugal to the United States, in which he enters into an argument to prove that the ad valorem duties upon Portuguese wines contained in the "Bill reducing the duties on imports and for other purposes" now before the House of Representatives, would, if passed into a law, violate the third article of the subsisting Treaty between the two countries.

Whilst it does not become me in this communication to express any opinion on the subject, I deem it my duty to present his note, through you, to the Committee on Foreign Affairs. I would, also, take the liberty of suggesting, whether it might not be proper, as a mark of respect to the Government of a friendly Power, that this note should be printed.

I am, Sir, with great respect, Yr. obedient servant,
JAMES BUCHANAN.

HON. CHARLES J. INGERSOLL,
Chairman Committee on For. Affairs.

TO THE PRESIDENT.²

DEPARTMENT OF STATE,

WASHINGTON, June 29, 1846.

TO THE PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 10th of April last, requesting the President of the United States to transmit to that House—"if not inconsistent with the public interest,"—copies of the correspondence in the year 1841 between the Presi-

¹ H. Doc. 219, 29 Cong. 1 Sess. 1; MS. Report Book, VI. 204. A similar letter was written to the Hon. George McDuffie, Chairman, Com. Foreign Relations, U. S. Senate.

² MSS. Department of State, Report Book, VI. 205. This report was transmitted by President Polk to the House of Representatives, July 2, 1846. The message, but not the report, is printed in Richardson's Messages and Papers of the Presidents, IV. 453.

dent of the United States and the Governor of New York, relative to the appearance of Joshua A. Spencer, Esq., District Attorney of the United States for the Western district of New York, in the courts of the state of New York, as counsel for Alexander McLeod, has the honor to report to the President the accompanying copies of papers, embracing the correspondence called for, so far as afforded by the files or records of this Department.

JAMES BUCHANAN.

TO MR. McDUFFIE.¹

DEPARTMENT OF STATE,

WASHINGTON, June 30, 1846.

HON. GEORGE McDUFFIE,

Chairman Com. Foreign Affairs, U. S. Senate.

SIR:

I have the honor of transmitting to you the copy of a letter, dated on the 6th instant, and received at this Department on Saturday last, from Robert Monroe Harrison, Esq., our Consul at Kingston, Jamaica. The statements in this letter are most probably, though certainly not intentionally, exaggerated; yet they contain sufficient to render it proper that I should respectfully call your attention to the subject of providing by law for granting letters of Marque and Reprisal against vessels under the Mexican flag.

It is true that there are but few, if any, commercial vessels of Mexico upon the high seas; and it is, therefore, not probable that many American privateers would be fitted out in case a law should pass authorising this mode of warfare. It is notwithstanding certain that such privateers might render good service to the commercial interests of the country by recapturing our merchant ships which had been taken by armed vessels under the Mexican flag, as well as by capturing these vessels themselves. Every means within our power should be rendered available for the protection of our Commerce.

It was neither the intention nor the wish of the President to resort to privateering in conducting the war against Mexico, unless this mode of warfare should be commenced by the enemy;

¹ MSS. Department of State, Report Book, VI. 206.

and it is not yet certain that the Mexican government has issued letters of marque against our Commerce. Indeed it is probable that the vessels which have assumed the guise of Mexican privateers may be mere pirates. Under these circumstances, it might be wise, should Congress deem it proper to pass any law upon the subject, to declare that this law should not be executed, unless it shall first clearly appear that letters of Marque had been actually issued by Mexico to its own citizens or to the subjects of foreign nations. In that event, should Congress adjourn without conferring on the President the power to grant letters of Marque, the want of this authority might prove very injurious to our Commerce during the recess.

It is proper I should observe, that the last despatch to the Department from General Campbell, our consul at the Havana, dated on the 9th instant, does not sustain the information communicated by Mr. Harrison that any such pirates or Mexican privateers have been fitted out at that Port.

I would refer you to the acts of June the 18th and 26th, 1812 (4 vol. Laws of the United States, pages 448 and 449) for the legislation of Congress on the subject of privateers, during our last war with Great Britain.

I have the honor to be, &c.

JAMES BUCHANAN.

TO MR. BILLE.¹

DEPARTMENT OF STATE,
WASHINGTON, 1st July, 1846.

MR. STEEN BILLE,
Philadelphia.

SIR:

I have the honor to acknowledge the receipt of your note of the 22nd ultimo, announcing certain modifications of the General Tariff of Sound and Belt Dues, which have been determined upon, to take effect from the 1st ultimo.

¹ MSS. Department of State, Notes to Danish Legation, VI. 17. Mr. Bille was Danish chargé d'affaires at Washington from August, 1830, till March, 1854, when he took final leave. He took temporary leave July 21, 1852; and is not to be confounded with Torben Bille, consul general, who acted as Danish chargé d'affaires ad interim from July 21, 1852, to March 17, 1854, when he presented credentials as chargé d'affaires.

In answering this note, I am directed by the President to say that these changes in favor of foreign commerce and navigation are duly appreciated by this Government.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MISS LANE.¹

WASHINGTON 3 July 1846.

MY DEAR HARRIET/

Your welcome letter has been received & I rejoiced to learn . . . I trust you will soon be well enough . . .² I think of all places for you the nunnery at Georgetown would be the best. Your religious principles are doubtless so well settled that you will not become a nun.

My labors are great; but they do not *way* me down as you write the word. Now I would say *weigh*; but Doctors may differ on this point.

I hope Mary has recovered ere this from her bruises. Give my love to her & tell her to have her saddle girthed tighter the next time that she rides.

It will be easy for you to find Dr. Jackson's remedy in any hay field near Lancaster at this season. It would be quite romantic & interesting to witness your exploit on such a theatre.

Your friends, Mrs. Bancroft & the Pleasontons, often inquire for you with kindness. They have given you somewhat of a name here: and Mrs. Polk & Miss Rucker her niece have several times urged me to permit you to come & pass some time with them. I have been as deaf as the adder to their request, knowing to use a word of your grandmother that you are too "outsetting" already. There is a time for all things under the sun as the wise man says: and your time will yet come.

I intend to go to the Bedford Springs this summer if possible: but as Congress may not adjourn until the 10th August, the fashionable season will then be over. I had thought of giving Mary & yourself a polite invitation to accompany me there; but

¹ Buchanan Papers, private collection. Imperfectly printed in Curtis's Buchanan, I. 539.

² The passages here missing are now illegible.

I fear it will be too late in the season for Mary to enact the character of a belle & you are quite too young to make the attempt.

Miss Hetty requests me to send her love to you & to say that she would be very glad to see you in Washington. Do you think you could conduct yourself so as to get along with her in peace? I fear she might be twice glad, once on your arrival & still more so on your departure.—Miss Hetty will be in Lancaster in September.

James Henry is here. I intend to commence with him tomorrow & make him eat vegetables or he shall have no meat. I have not yet determined upon a school for him.

I wish you to embrace the first opportunity to remember me very kindly to Mrs. Franklin. I never lived beside a better or a more agreeable neighbor. Give my love to Mary though I perceive this is the second time & Patty & believe me ever to be yours affectionately

JAMES BUCHANAN.

MISS HARRIET LANE.

MESSAGE OF PRESIDENT POLK

ON A TREATY WITH HANOVER.¹

[July 7, 1846.]

TO THE SENATE OF THE UNITED STATES:

I herewith communicate to the Senate, for its consideration, a treaty of commerce and navigation between the United States and the Kingdom of Hanover, concluded and signed at Hanover on the 10th ultimo, by the respective plenipotentiaries.

And I communicate at the same time extracts of a dispatch from the agent of the United States explanatory of the treaty.

JAMES K. POLK.

WASHINGTON, July 7, 1846.

¹ Senate Executive Journal, VII. 115.

TO MR. McLANE.¹

No. 38.

DEPARTMENT OF STATE,

WASHINGTON, 13th July, 1846.

SIR: Intimations have reached this Department, from the Honble. Mr. Rhett, of South Carolina, that Her Britannic Majesty's Government has omitted or declined to carry out, on its part, the arrangement recently entered into between myself and Mr. Pakenham, for the adjustment and payment of the claims of the two Governments upon each other, arising from the collection of certain import duties, in alleged violation of the second article of the commercial convention of 3d July, 1815, between the United States and Great Britain.

A perusal of my note to Mr. Pakenham, of the 18th of February last, and of his communication to this Department of the 26th of the same month, (copies of which are enclosed,) will acquaint you with the present position of this question. It is difficult to believe, that after Congress has made an appropriation for refunding the duties collected in the ports of this country contrary to the terms of the convention of 1815, and especially after an official assurance has been received from Her Majesty's Government that directions would be given for the payment of the several claims on account of the duties levied on rough rice imported into Great Britain from the United States, that any difficulty should arise in satisfying all well authenticated claims on the British Government, of the latter class. However, I call your attention to the subject at the instance of Mr. Rhett, with a view that you may ascertain whether the intimations referred to are well founded, and, if necessary, exercise your good offices in behalf of the claimants.

I am, Sir, with great respect, Your obedient servant,

JAMES BUCHANAN.

LOUIS McLANE, ESQRE., &c., &c., &c.

¹ H. Ex. Doc. 38, 30 Cong. 1 Sess. 17; MS. Instructions, Great Britain, XV. 318.

TO MR. WISE.¹

No. 25.

DEPARTMENT OF STATE,
WASHINGTON, 13th July, 1846.To HENRY A. WISE, ESQUIRE,
etc., etc., etc.

SIR:—

Your despatch No. 45, of the 29th of April, last, has been received.

Mr. C. I. M. Gwinn having presented an account as bearer of despatches from your Legation, an occasion is afforded for stating the rule upon this subject which governs the Department and to which it is expected that the Legations abroad will strictly conform.

No paid bearer of despatches is employed by the Department except in cases where this is indispensably necessary to their safe transmission, or where, as well from the magnitude and importance of the subject and its urgency, as from the uncertainty attending other and less costly modes of conveyance, the nature of the occasion is such as strictly to justify the expenditure. In all cases which are not of this nature, the ordinary modes of transmitting letters, especially when these do not require them to pass through a foreign post office, are deemed sufficiently secure, and although it is well in such cases to entrust despatches to any American citizen or other person of known respectability who may be disposed to take charge of them as far as the sea port in our country to which the vessel is bound, or as far as the seat of Government, if such be his destination, it should always be distinctly understood, that this is not to be made the ground of any pecuniary claim whatever.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Brazil, XV. 131.

TO MR. LARKIN.¹

DEPARTMENT OF STATE,

WASHINGTON July 14th 1846.

THOMAS O. LARKIN ESQRE.

U. S. Consul, Monterey.

SIR,

Your despatches to No. 42 inclusive, No. 40 excepted, & Nos. 14, 15, 17 & 19, referred to in a letter addressed to you on the 31st of October last, also excepted, have been received.

The Despatch Agent at New York on being informed that the press which he was directed to send you, had not been received, replied that he had overlooked the order, but that it would now be sent to you, care of Messrs. Wm. Appleton & Co., Boston.

In relation to the celebration of the rites of Matrimony, between Citizens of the U. States residing in California, respecting which you ask for instructions, I have to inform you that there is no law in existence which authorises Consuls of the United States to perform the marriage ceremony. The contract of matrimony is local in its nature, and the manner in which it shall be entered into is regulated by the laws of the place. The general principle on this subject as laid down by Chancellor Kent is that "the *lex loci contractus* prevails over the *lex domicilii*, as being the safer rule and one dictated by just and enlightened views of international jurisdiction." He adds "as the law of marriage is a part of the *jus gentium*, the general rule undoubtedly is, that a marriage valid by the law of the place where it is celebrated is valid everywhere." (Kent's Commentaries, Vol. 2, pa. 91 & 92.)

I enclose herewith for your information and guidance copies of the opinions of Attorney Generals John Nelson & John Y. Mason, dated 10 July 1843 & 11th June 1845—the first relating to the transportation of destitute American Seamen to the U. States and the latter to the deposit of Ship's papers—also is enclosed a letter from the 5th Auditor of the Treasury upon the subject of your Accounts.

I am Sir &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Despatches to Consuls, XI. 478.

TO MR. LEWIS.¹

DEPARTMENT OF STATE,
WASHINGTON, July 14, 1846.

HON. DIXON H. LEWIS,

(Chairman Com. of Finance, Senate.)

SIR:

I have the honor to acknowledge the receipt of your communication of the 8th instant, requesting, on behalf of the Committee on Finance, to be informed "whether it has been ascertained to the satisfaction of the Government, as required by the proviso to the Civil and Diplomatic Bill of last year, making provision for the payment of the April and July instalments of the Mexican indemnities due in 1844, that said instalments have been paid by the Mexican government to the agent appointed by the United States to receive the same in such manner as to discharge all claim on the Mexican Government, and whether the said instalments can now be paid under the authority given in said bill."

In compliance with this request, I have the honor to refer you to the following passage in the President's last annual message to Congress, and to state that nothing has since occurred to change the view of the subject then expressed by him. "As these instalments appear never to have been actually paid by the Government of Mexico to the Agent, and as that Government has not, therefore, been released so as to discharge the claim, I do not feel myself warranted in directing payment to be made to the claimants out of the Treasury without further legislation."

At that time the President presented to Congress all the information on the subject then in his possession. The information since obtained by him was communicated to the Senate, in reply to their resolution of the 10th of February last.

That information dispelled all doubt from his mind in regard to the payment of the instalments in question, by proving conclusively that it had not been made. The precise nature of the transaction entered into by Mr. Emilio Voss, the agent of the United States, with a view to obtaining their payment, was for the first time ascertained by means of the copy of Messrs. Tayleur, Jamison and Co.'s proposition to the Mexican Government, obtained in Mexico by Mr. Slidell, and constituting one of

¹ MSS. Department of State, Report Book, VI. 207.

the enclosures in his Despatch No. 5, dated Mexico, January 10, 1846.

From this document it will be seen, that on the 25th August 1844 the above named firm submitted to the Mexican government a proposition (which was accepted by it) "for the payment of the quarterly instalments due and payable to the United States of America," which proposition was, that upon certain conditions, therein set forth—a part of which required that certain orders on the Mexican Treasury should be delivered to Tayleur, Jamison & Co.—they would *pay into the Mexican Treasury* the sum of \$274,664.67/100, the amount required to meet those instalments.

The other documents show, that, shortly after this proposal had been accepted, Mr. Emilio Voss gave to the Mexican Government a receipt for the amount. They show further, that the whole arrangement fell through, and that the payment of \$274,664.67/100 was never made into the Mexican Treasury by Tayleur, Jamison, and Co., in consequence, as they allege, of the Mexican Government having violated its agreement by giving counter-orders, revoking those which had been delivered to them in pursuance of its terms. In regard to the receipt given by him, Mr. Voss, in his letter to Mr. Slidell of the 17th December 1845, says: "In consequence of this arrangement, vouchers against different branches of the public treasury for the sum of \$274,664.67/100 were handed over to the English capitalists; in return for which I gave the Government a receipt for the same sum, as if actually paid—this operation being in fact an exchange of documents in perfect accordance with the established rule and practice in the financial department here, and the value of my receipt remaining inseparably connected with that of the vouchers given in exchange."

It will be perceived that in the explanation given by him in the letter from which this quotation is made, Mr. Voss, without referring to Messrs. Tayleur, Jamison, and Co. by name, but speaking of them as "an English house here of the highest standing," omits all mention of their Proposal to the Mexican Government, and represents them as merely having "assumed the collection of the \$274,664.67/100 due to me as the representative of the American claimants, in addition to their own claim, and agreed to pay over to me the proportion to which I was entitled, gradually, as recovered by them from the Mexican government."

This discrepancy, however, does not in the slightest degree affect the fact, clearly and conclusively established by the documents, that no payment, whatever, either in money or in orders on the Treasury, has ever been made to Mr. Voss, and that his receipt was given *without "value received"* in any shape or form whatever. Agreeably to the proposal of Tayleur, Jamison & Co., the money was to be paid by them into the Mexican Treasury, so as to enable the Mexican Treasury to pay it to Mr. Voss; and the Treasury orders were to be delivered to them, and not to Mr. Voss. But the money never got into the Mexican Treasury; and the Treasury orders, although delivered to them, were countermanded before they could be made available. That the receipt was given upon the mere strength of the expectation that the delivery of these treasury notes to Tayleur, Jamison & Co. would lead to the payment of the Money, first by them into the Mexican treasury, and then by the Treasury to Mr. Voss, is a point which is deemed not any longer to admit of doubt.

I have the honor to be, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. CLEMSON.¹

No. II.

DEPARTMENT OF STATE,

WASHINGTON, 18th July, 1846.

THOMAS G. CLEMSON, ESQRE.

etc., etc., Brussels.

SIR:—

I transmit, enclosed, a copy of a letter addressed to this Department on the 16th instant, by the firm of Chouteau, Merle & Sanford, of New York, stating, that they had just shipped from that place, a quantity of flour, bound for Antwerp, with bills of lading, consigned *to order*, to a house in London, with a request that the bills might be sent to a good Belgian house in Antwerp, to dispose of the flour for the benefit of the owners; and that the Belgian Consul, at New York, had refused to grant his official certificate, upon the ground that the shippers were unable to give the name of the house in Antwerp to which the flour was to be consigned. Messrs. Chouteau, Merle & Sanford

¹ MSS. Department of State, Instructions, Belgium, I. 62.

declare that they have acted on this occasion in conformity with the usual practice of merchants, and that Belgian merchants have a right to act in the same manner in their intercourse with the United States, and they, therefore, ask for the interposition of Government to protect them from any loss.

In compliance with their wishes, I have to request that you will interest yourself in this case, and take any steps which its nature may require, and which can with propriety be taken by you to shield the property, in question, from being seized or subjected to undue charges. And you will acquaint the parties interested with what you may do in the premises.

Your despatches to No. 26, inclusive, have been received at this Department.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO THE PRESIDENT.¹

[July 18, 1846.]

[TO THE PRESIDENT OF THE UNITED STATES:]

The Secretary of State, to whom was referred by the President the resolution of the Senate of the 18th ultimo, respectfully reports, that there is not in the Department of State any official document or evidence "in relation to the kind and extent of claims to farms and lands of the Puget's Sound Agricultural Company in the Territory of Oregon"—nor is there in this Department "a copy of the act incorporating the Puget's Sound Agricultural company," or of "the original instrument constituting that company." Nor is there any official document or evidence in this Department "relative to the kind, character, number, and extent of the possessory rights of the Hudson's Bay Company and of all British subjects who may be already in the occupation of land or other property in the Oregon Territory south of the 49th parallel of North latitude," nor of "the number of such British subjects, including the members, agents and servants of said company;" nor of the "location, number, and

¹ S. Doc. 489, 29 Cong. 1 Sess. 50; MS. Report Book, VI. 209. This report was communicated by President Polk to the Senate, July 21, 1846. (S. Doc. 489, 29 Cong. 1 Sess. 50.)

extent of the forts, stations, and settlements of said company south of said parallel;" nor of "the means of attack and defence in possession of said company within said limits."

The only information on these subjects in the possession of the Secretary of State has been obtained from books accessible to all and has been chiefly derived from the following sources:

I.—The correspondence and proceedings of the Hudson's Bay Company with the British Government previous to the renewal of the Lease of that Company, on the 30th May, 1838, for a term of twenty one years, to trade with the Indians in certain parts of North America, west of the Rocky mountains. This correspondence and these proceedings were ordered to be printed by the House of Commons on the 8th August, 1842, and may be found in the 28th volume of "Accounts and Papers" &c. in the Congressional Library. There is no copy of this work in the State Department.

II.—From detached portions of Captain Charles Wilkes' Narrative of the Exploring Expedition contained in vol. 4, chaps. 9, 10, 11, 12, 13 & 14.

And IIId, from Mr. Greenhow's History of Oregon and California, and especially pages 31, 32 & 33 of that work.

All of which is respectfully submitted by

JAMES BUCHANAN.

DEPARTMENT OF STATE,
18th July, 1846.

TO THE PRESIDENT.¹

DEPARTMENT OF STATE,
WASHINGTON, July 21, 1846.

TO THE PRESIDENT OF THE UNITED STATES:

The Secretary of State, to whom was referred the resolution of the Senate of the 17th ultimo, requesting the President "to communicate to the Senate a copy of all the correspondence which has taken place between this Government and that of Great Britain relative to the Oregon treaty, together with the despatches and instructions forwarded to our Minister, Mr. McLane, and a full and complete copy of his despatches and communications to this Government on the same subject, not

¹ S. Doc. 489, 29 Cong. 1 Sess. 25; MS. Report Book, VI. 210.

heretofore communicated to the Senate"—respectfully reports, that no correspondence has taken place between this Government and that of Great Britain relative to the Oregon Treaty which has not heretofore been communicated to the Senate.

The Secretary of State herewith submits to the President copies of all "the Despatches & instructions forwarded to our Minister, Mr. McLane, and also a full and complete copy of his Despatches & communications to this Government," on the subject of the Oregon treaty, "not heretofore communicated to Congress." I, also, submit the copy of a note from Lord Aberdeen to Mr. McLane dated on the 22d May last.

In regard to his own "Despatches and instructions" to Mr. McLane:—the Secretary is not aware of any public considerations which now oppose their transmission to the Senate. On the contrary, he deems it eminently proper that entire copies of them all should be furnished to that body without further delay.

In regard to the despatches of Mr. McLane to this Government—a serious question arises as to the propriety of communicating them to the Senate. This question he deems it proper to present to the President for his determination; because its decision may involve consequences for all future time essentially affecting the ability of the Executive Department of the Government to conduct our intercourse with Foreign nations in such a manner as best to promote the public interest.

It is a primary duty of a Foreign Minister to communicate freely to his Government all that he sees or hears which can have any bearing upon the interests of his country, together with his own opinions and speculations upon passing events both at home and abroad connected with the objects of his mission. It is his business to seek information from every source within his reach, and to place his own Government in possession of all that he acquires. Such information is essential to enable this Government successfully to perform its duties to the country, in our present extended intercourse with foreign nations.—Whatever, therefore, would tend to close up the sources of information against our Diplomatic agents abroad, or to deter them from freely communicating all the information in their possession, could not fail to prove seriously detrimental to the national interest.

Mr. McLane has in the fullest manner performed his duty in this respect. His despatches are both numerous and voluminous. He has kept the Department well advised of all that it

was necessary for it to know in relation to the different and varying aspects which the Oregon question has assumed in England. No person, however, who peruses these Despatches can suppose that, with the exceptions of very small portions of them, they were intended for publication, or that the probability of such an event had been contemplated by him.

If, under such circumstances, his conversations with individuals in office and out of office, which from their very nature were confidential, should be published to the world, this would have a strong tendency to obstruct every avenue of information against our diplomatic agents and greatly to impair their usefulness; and on great occasions the possibility of a candid disclosure to them of the intentions of a Foreign Government, or of the real motives which might control the action of its ministers, would be entirely out of the question. Persons intrusted with the conduct of Foreign Affairs in other countries would feel the necessity of observing towards our Diplomatic agents a guarded silence, different from the course which might safely be pursued towards the Ministers of other Powers. The private and confidential intercourse between Ministers of different countries, which often leads to the most important and beneficial results, would cease to exist in regard to the Ministers of the United States. In this manner one of the great purposes of sending Ministers abroad would be defeated.

Besides, the publication of such communications, especially if coupled with the Minister's unreserved comments, made confidentially to his own Government, would place him in a position towards those whose confidence he had thus been made instrumental in violating, which no honorable man would desire to occupy.

The publication of such despatches would exercise an unhappy influence upon the conduct of our Diplomatic agents. In order to shield themselves from reproach, they might then be induced, either to communicate important information with their observations upon it in private letters, and through other channels not subject to official inspection, or to refrain altogether from making communications, except such as might be published to the world without unpleasant consequences to themselves.

In the first case, that information which ought to exist in the archives of the Department for the use of the Government in all future time would be confined to a few individuals—and in the last, the Government might be deprived of the informa-

tion necessary to avert danger from the Country, or to promote the best interests of the people in their intercourse with foreign nations.

The Secretary is deeply sensible that from the very nature of our institutions the greatest publicity ought to be given to the conduct of all public agents. There should be no exception to this rule unless in cases where the public interest imperatively demands it. Whether this be such a case is respectfully presented for the decision of the President.

Public considerations alone have induced the Secretary of State to make these suggestions. In performing this duty, he need scarcely say, that every facility will be most cheerfully afforded at the Department of State to any Senator who may desire to peruse the Despatches of Mr. McLane.

All of which is respectfully submitted by

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK

ON THE OREGON SETTLEMENT.¹

[July 21, 1846.]

TO THE SENATE OF THE UNITED STATES:

I herewith transmit, in compliance with the request of the Senate in their resolution of the 17th of June, 1846, a report of the Secretary of State, together with a copy of all "the despatches and instructions" "relative to the Oregon treaty," "forwarded to our minister, McLane," "not heretofore communicated to the Senate," including a statement of the propositions for the adjustment of the Oregon question previously made and rejected by the respective governments. This statement was furnished to Mr. McLane before his departure from the country, and is dated on the 12th July, 1845, the day on which the note was addressed by the Secretary of State to Mr. Pakenham, offering to settle the controversy by the 49th parallel of latitude, which was rejected by that minister on the 29th July following.

The Senate will perceive that extracts from but two of Mr. McLane's "despatches and communications to this government" are transmitted; and these only because they were necessary to explain the answers given to them by the Secretary of State.

These despatches are both numerous and voluminous, and, from their confidential character, their publication, it is believed, would be highly prejudicial to the public interests.

Public considerations alone have induced me to withhold the despatches of Mr. McLane, addressed to the Secretary of State. I concur with the Secretary of State in the views presented in his report, herewith transmitted, against the publication of these despatches.

¹ S. Doc. 489, 29 Cong. 1 Sess. 24.

Mr. McLane has performed his whole duty to his country; and I am not only willing, but anxious, that every Senator who may desire it shall have an opportunity of perusing these despatches at the Department of State. The Secretary of State has been instructed to afford every facility for this purpose.

JAMES K. POLK.

WASHINGTON, July 21, 1846.

TO MR. DONELSON.¹

(No. 3.)

DEPARTMENT OF STATE,

WASHINGTON, 23rd July, 1846.

ANDREW J. DONELSON, ESQRE.,
&c., &c., Berlin.

SIR:

I transmit, with this despatch, a ratified copy of the Convention for the mutual abolition of the droit d'aubaine and taxes on emigration, between the United States and His Royal Highness the Duke of Nassau, concluded and signed at Berlin, by the respective Plenipotentiaries, on the 27th day of May, of the present year. This Convention was submitted to the Senate on the 23rd ultimo, and ratified on the 21st instant.

I transmit, also, a special power from the President, authorizing you to make the exchange of the ratifications of the Convention.

Mr. Wheaton's despatches to No. 287, inclusive, (except 271), have been received. Two of them, however,—one of the 13th and one of the 27th May—are numbered 285. It is presumed that the latter should have been numbered 286.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO COMMODORE CONNER.²

DEPARTMENT OF STATE,

WASHINGTON, July 27th, 1846.

SIR: I have the honor to transmit herewith a sealed note addressed to the Minister of Foreign Relations of the Mexican Republic, with an open copy of the same for your own use.

¹ MSS. Department of State, Instructions, Prussia, XIV. 101.

² S. Doc. 107, 29 Cong. 2 Sess. 3; MS. Report Book, VI. 214.

From this you will perceive that the President has determined again to offer the olive branch to Mexico.

The President does not believe that any point of National honor should forbid him from making this tender, especially after the glorious events which have thus far marked the progress of the War. Should the Mexican Government determine to accept the offer, and enter upon negotiations, it may, and probably will, propose to you to conclude an armistice during their pendency. If such a proposition should be made, you will promptly, but kindly, reject it, giving at the same time every assurance that the President will do all in his power to bring the negotiation to a satisfactory termination with the least possible delay.

If an armistice were concluded, the two parties would not stand on an equal footing. The United States, at a heavy expense, now have armies in the field and navies upon the ocean, in successful progress to conquer an honorable peace. Should their operations be arrested by an armistice, and the negotiations for peace should finally fail, we would then lose nearly all the advantages of an entire campaign. Besides, this sacrifice, great as it might be, would scarcely equal the evils, in every form, which a season of inactivity could not fail to inflict upon our troops, the greater portion of whom consists of patriotic citizens who have volunteered to serve their country in the confidence that they would be actively employed.

Whilst, therefore, the President sincerely desires, with the utmost promptitude, to restore our friendly relations with Mexico upon fair and liberal terms, the war must continue to be prosecuted with the utmost vigor until a definitive Treaty of Peace shall be signed and ratified by Mexico.

You will not fail, with all the despatch in your power, to transmit the answer of the Mexican Government to this Department.

I have the honor to be, Sir, very respectfully,
Your obedt. Servt.

JAMES BUCHANAN.

To COMMODORE DAVID CONNER,
commanding the naval forces of the United States in the
Gulf of Mexico.

TO THE MEXICAN MINISTER OF FOREIGN RELATIONS.¹

DEPARTMENT OF STATE,

WASHINGTON, 27 July, 1846.

SIR: The President of the United States, no less anxious to terminate than he was to avoid the present unhappy war with the Mexican Republic, has determined to make an effort to accomplish this purpose. He has, accordingly, instructed the Undersigned, Secretary of State, to propose through Your Excellency to the Mexican Government, that negotiations shall forthwith commence for the conclusion of a peace just and honorable for both parties. Should this offer be received and responded to by the Mexican Government in the same frank and friendly spirit by which it has been dictated, he will immediately despatch an Envoy Extraordinary and Minister Plenipotentiary to the City of Mexico, with instructions and full powers to conclude a Treaty of Peace which shall adjust all the questions in dispute between the two Republics. If the Mexican Government should prefer to send a Minister to Washington to conduct the negotiation here, he shall be received with kindness and respect, and every effort shall be made to accomplish the object of his mission with the least possible delay.

In the present communication, it is deemed useless and might prove injurious, to discuss the causes of the existing war. This might tend to delay or defeat the restoration of peace. The past is already consigned to history; the future, under Providence, is within our own power. The occasion may however be embraced to state that the President has ever cherished the kindest feelings for Mexico, and that one of the first wishes of his heart is, that she may be a powerful and prosperous Republic in perpetual amity with the United States. Commodore Conner will transmit this despatch for Your Excellency to the Governor of Vera Cruz, under a flag of truce; and you are respectfully invited to adopt the same channel for communicating your answer.

I avail myself of this occasion to offer Your Excellency the assurance of my most distinguished consideration.

JAMES BUCHANAN.

To HIS EXCELLENCY THE MINISTER OF FOREIGN RELATIONS
OF THE MEXICAN REPUBLIC.

¹ S. Doc. 107, 29 Cong. 2 Sess. 2; H. Ex. Doc. 4, 29 Cong. 2 Sess. 42; MS. Communications to Foreign Sovereigns and States, III. 2.

TO MR. HUNT.¹

DEPARTMENT OF STATE,
WASHINGTON, July 27, 1846.

BENJAMIN F. HUNT, ESQR.
(Charleston, South Carolina)

SIR:

Your letter of the 15th ultimo to the President, on the subject "of Captains P. Sister and Larkin, both of whom are confined in the Charleston jail under conviction for leaving the United States with intent to be engaged in the Slave trade," has been referred to this Department, with instructions to say, in reply, that no power is vested in him to order or to sanction the removal of prisoners placed in the custody of the Marshal from the place of confinement designated by the law or in the sentence passed upon them. This is a matter which he must leave entirely to the courts of law.

I am, &c.

JAMES BUCHANAN.

TO MR. McLANE.²

(No. 44.)

DEPARTMENT OF STATE,
WASHINGTON, 27th July, 1846.

LOUIS McLANE, ESQRE.,
&c., &c., &c.

SIR:

I am instructed by the President to express his approbation of the manner in which you responded to the communication made to you by Lord Aberdeen, "unofficially and upon his own responsibility," in relation to the subject of a mediation, on the part of the British Government, for the purpose of terminating our existing war with Mexico.

I observe that Sir Robert Peel is reported in the Morning Chronicle to have used the following language in the House of Commons, on the evening of the 29th June last: "And, Sir, let me say, and I think it is to the credit of my noble friend (Lord Aberdeen,) that, on the occurrence of those hostilities between

¹ MSS. Department of State, 36 Domestic Letters, 54.

² MSS. Department of State, Instructions, Great Britain, XV. 321.

Mexico and the United States, before we were aware of the reception our proposal with regard to the Oregon Territory would meet with on their part, by the first packet that sailed for the United States, we tendered the offer of our services for the purpose of mediating between them and the Mexicans."

The report in the Times is substantially the same. Now, no such offer of mediation has ever been made to this Government, unless Sir Robert Peel may have construed what Lord Aberdeen had said to yourself on the subject to amount to such an offer. From your report of the conversation, which is doubtless correct, this would seem to have been a mistake. According to this report, His Lordship said that, although the British Government "did not intend to offer its mediation to our Government, among other reasons lest the offer might be rejected, he thought he might venture, in a private conversation with me [you], unofficially, and upon his own responsibility, to state that, if the President desired it, he would be happy, in a more formal way, to propose a mediation."

A report had obtained extensive circulation in this country previous to the arrival of the last steam packet (the Cambria,) that the British Government had offered its mediation to this Government; but Mr. Pakenham in conversation then informed me that he had received no instructions to make such an offer. Since the arrival of this vessel, that gentleman called and read to me a despatch from Lord Aberdeen to himself, in which, according to my understanding of it, His Lordship states that an offer had been actually made to you.

Whilst I attach no importance to the variance in these statements, I deem it proper to give you all the information on the subject in my possession. Whether your version or that of Lord Aberdeen be correct, (although I rely implicitly upon your statement,) the President equally approves the course which you have pursued.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. McDUFFIE.¹

DEPARTMENT OF STATE,

WASHINGTON, 29th July, 1846.

HON. GEORGE McDUFFIE,

(Chairman Com. on Foreign Rel., Senate.)

SIR:

With reference to the Treaty of Commerce between the United States and the Republic of New Granada, which, it is understood, was long since submitted for the consideration of the Senate, I have the honor to transmit a copy of a letter under date the 28th instant, addressed to this Department by Don Gregorio Dominguez, the Consul General of that Republic in this country.

I am, &c.

JAMES BUCHANAN.

TO MR. FORNEY.²*Private and confidential.*

WASHINGTON 29 July 1846.

JOHN W. FORNEY ESQ.

MY DEAR SIR,

The new Tariff has passed the Senate with an amendment which has again placed it in the power of the House. Although some of our Democratic members from Pennsylvania hope it may be defeated there, yet I entertain no such expectation. In case the bill should pass, I shall not undertake to advise what ought to be the course of the Pennsylvanian; but as your sincere friend, I deem it to be my duty to express to you my opinion of the measure.

After a careful review of my remarks in the Senate upon the passage of the tariff of 1842, I find nothing I should desire to expunge. The moment was propitious for modifying that Act. The duties which it imposes might have been considerably reduced without serious detriment to any of the great interests of the country: especially if they had assumed a specific form in all cases where this was practicable. A revenue Tariff, with

¹ MSS. Department of State, Report Book, VI. 215.² Buchanan Papers, Historical Society of Pennsylvania.

moderate discriminations for incidental protection, and specific duties, ought to have been the basis of the new Bill. But the golden opportunity for settling this question has passed away, and perhaps for ever. I trust not. Many of those who voted for it are dissatisfied with its provisions. They took it only as a means of extricating themselves from the Tariff of 1842. It is a measure which, in my opinion, cannot be sustained by principles which ought to govern the conduct of a wise statesman in the present condition of the country. In the first place, it will, unless I am greatly mistaken, disappoint its friends in regard to the amount of revenue which it will produce.

2. By its universal ad valorem duties, great frauds will be committed on the revenue: & it will force the importing business into the hands of foreign agents of foreign manufacturers, greatly to the injury of American merchants.

3. It will, to a great extent, be ruinous to our mechanics & artisans who work up foreign materials for use, such as tailors &c. &c. &c.

4. It will operate more prejudicially on Pennsylvania than any other State. By the Tariff of 27 April 1816, more than thirty years ago, the duty on hammered iron was fixed at \$9 per ton; & on rolled iron, an article [which] by far the most essentially interferes with our production, at \$30 per ton. By the act of 20 April 1818, the duty on pig iron was fixed at \$10 per ton; & that on hammered iron at \$15 per ton. The wise statesmen who framed these laws had just come out of the war with Great Britain and their experience had taught them that the domestic production of iron was necessary for national defence.

5. By the act of 1816, the duty on coal was 5 cents per bushel: & estimating 30 bushels to the ton, it was \$1.50 per ton. This was at that time considered a mere revenue duty.

How the great reductions of duty on iron and coal, & the substitution of ad valorem for specific duties will operate on the prosperity of Pennsylvania, we shall soon discover from our experience.

I have not time to estimate exactly the amount of the reduction of duty on iron & manufactures of iron under the present Bill; but that on coal may be easily ascertained. Under the tariff of 1842, it is \$1.75 per ton; under the present bill, it will range from 40 to 60 cents.

The delicacy of your position consists in this. The middle

course upon the present occasion is the wise course: but it will be attended with great difficulty. The public mind will be apt to go to extremes: and an issue will be made up between the Tariff of 1842 & the present Bill. In this alternative, I should choose the Tariff of 1842, if I were compelled to choose. The whigs will endeavour to make this issue. Instead of the cry of repeal, in my opinion the Democratic cry of Pennsylvania ought to be: A revenue Tariff, with such moderate discriminations as would "afford reasonable incidental protection to our home industry," & specific duties on all articles in which this is practicable.

All these hasty notes are dictated by friendship, & are intended for your own eye.

If I ever heard of Piolet's application to be appointed Pay master, before the receipt of your letter, I have entirely forgotten it; & this, I think could not have been.

from your friend
very sincerely

JAMES BUCHANAN.

P. S. I have this moment learned that the House has concurred in the amendment of the Senate & the Bill only wants the signature of the President to become a law.

TO MR. SAUNDERS.¹

(No. 3.) (*Circular.*) DEPARTMENT OF STATE,
WASHINGTON, 31st July, 1846.

ROMULUS M. SAUNDERS, ESQRE.,
&c., &c., Spain.

SIR:

The enclosed copy of a letter which has just been addressed by this Department to Mr. John Miller, its Agent in London, will acquaint you with the instructions which, under the changes produced by the existing Post Office Law, it has been found necessary to give him touching the use of the despatch-bags of this Department. Those bags do not, as formerly, come on to Washington. They are transmitted from London and Liverpool to the Despatch Agents at Boston and New York, by whom they

¹ MSS. Department of State, Instructions, Spain, XIV. 207.

are opened and their contents deposited in the post-office, for transmission by the ordinary mail. There is no objection to your transmitting to the Agent at London, together with your public despatches, any private letters or papers for your family or friends in the United States, or any other mailable matter which you may deem it reasonable and proper so to transmit. But I have to request that nothing whatever of this kind, either written or printed, be included in any envelope addressed to this Department; unless it be something in regard to which you have a special reason for wishing that it be received through this Department. Except in cases of this kind, all matters of the sort are to be put under cover to the Agent at London, who will forward them in the bag of the Department to Boston or New York; where they will be mailed by the Agent at the same time with the despatches for the Department.

All printed matter is to be put up with one end open, and to be endorsed "printed matter only," or "newspapers," as the case may be; and the number of newspapers is to be stated in every instance. Your particular attention to this is requested, as the neglect of it inevitably entails totally unnecessary trouble both upon the post-office and upon the Department, by causing all such parcels (when in a close cover) to be charged with letter postage, or by creating the necessity for opening them, to ascertain the number of newspapers when this is not stated.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. FORNEY.¹

Private.

WASHINGTON 1 August 1846.

JOHN W. FORNEY ESQR.

MY DEAR SIR,

In conducting the Pennsylvanian, I would advise the following course:

I. An approbation of our Senators and Representatives for resisting the passage of the Tariff Bill, as dictated alike by public duty and their instructions.

¹ Buchanan Papers, Historical Society of Pennsylvania.

2. The impossibility of obtaining a restoration of the Tariff of 1842, it having been condemned by public opinion, and even by the manufacturers themselves. Vide the correspondence between them and Mr. Webster, published in the National Intelligencer of the 31 ultimo.

3. That many who voted for the present Tariff did so, not because they were satisfied with all its provisions, but because by means of it, they would get clear of the Tariff of '42.

4. That a disposition exists among the Democracy to do justice to Penna. by increasing the duties on coal, iron and mechanical labor: and a united and vigorous effort to accomplish this purpose may, and probably will, prove successful at the commencement of the next Session of Congress, and a very short time after the present law will go into operation, which will be on the first day of December.

5. That this desire will be greatly increased should the State adhere to its Democratic faith; it being much more probable that this will be granted by a Democratic majority, on an appeal from their political brethren, than from the Whigs.

6. The Manufacturers ought to be warned not to make it a political question, and not to attempt to excite a panic; but to go on with their business, and all may yet go well.

7. If the issue should be made between the present law, and the Tariff of 1842, defeat is inevitable. The Tariff of 1842 never will be restored. By making the attempt we lose all the advantages within our reach. Repeal is not the word, but modification. A protective Tariff is not the word; but a revenue Tariff with sufficient discriminations to maintain our home industry.

8. Still convinced as I am that specific duties are not the best, it may be better not to make the point distinctly, at the present moment.

Our Senators & Representatives are disposed to do their duty in the present emergency; and I hope that yet all may be well.

I write in haste.

from your friend

JAMES BUCHANAN.

P. S. I shall write again soon.

TO MR. KING.¹

DEPARTMENT OF STATE,
WASHINGTON, Aug. 3, 1846.

HON. DANIEL P. KING
(House of Representatives)

SIR:

I have the honor to acknowledge the receipt to-day of your note of the 1st instant, on the subject of "the Fishing Schooners Director & Pallas, alleged to have been illegally captured and confiscated by the British government several years since." The current business of the Department, and the many important pending questions which have demanded my attention, ever since I was first made aware of the existence of these cases by your note of the 25th February last, have, to my regret, been so engrossing as to put it out of my power to take them under consideration at an earlier period.

I now find that they were first presented to this Department on the 2d August, 1841, by a note from the Hon. L. Saltonstall to Mr. Webster, then Secretary of State, transmitting various petitions addressed to him on the subject of the seizure of the above named vessels, which petitions were accompanied by a number of affidavits and other papers. Upon examination of the statements and testimony they are found to present strong *prima facie* cases of a degree of rigor on the part of the officers of the British Government, which, independently of the insulting and harsh behavior ascribed to them, could scarcely be sanctioned by it, even on the supposition that the alleged violations of the convention of 1818 had really occurred. Whether it had been violated in these cases is a question which cannot, of course, be decided upon *ex parte* testimony. I shall deem it my duty, however, to bring them without delay to the notice of the British Government, which cannot fail to be sensible of the strong claim they present to its attention and to the most thorough investigation.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 58. These claims were disallowed by the umpire of the mixed commission under the convention between the United States and Great Britain of February 8, 1853, for want of evidence. (Moore, International Arbitrations, I. 418-419.)

MESSAGE OF PRESIDENT POLK ON NEGOTIATIONS WITH MEXICO.¹

[August 4, 1846.]

TO THE SENATE OF THE UNITED STATES:

I herewith communicate to the Senate the copy of a letter, under date of the 27th ultimo, from the Secretary of State of the United States to the Minister of Foreign Relations of the Mexican republic, again proposing to open negotiations and conclude a treaty of peace, which shall adjust all the questions in dispute between the two republics. Considering the relative power of the two countries, the glorious events which have already signalized our arms, and the distracted condition of Mexico, I did not conceive that any point of national honor could exist which ought to prevent me from making this overture. Equally anxious to terminate, by a peace honorable for both parties, as I was originally to avoid the existing war, I have deemed it my duty again to extend the olive branch to Mexico. Should the government of that republic accept the offer in the same friendly spirit by which it was dictated, negotiations will speedily commence for the conclusion of a treaty.

The chief difficulty to be anticipated in the negotiation is the adjustment of the boundary between the parties, by a line which shall at once be satisfactory and convenient to both, and such as neither will hereafter be inclined to disturb. This is the best mode of securing perpetual peace and good neighborhood between the two republics. Should the Mexican government, in order to accomplish these objects, be willing to cede any portion of their territory to the United States, we ought to pay them a fair equivalent; a just and honorable peace, and not conquest, being our purpose in the prosecution of the war.

Under these circumstances, and considering the exhausted and distracted condition of the Mexican republic, it might become necessary, in order to restore peace, that I should have it in my power to advance a portion of the consideration money for any cession of territory which may be made. The Mexican government might not be willing to wait for the payment of the whole until the treaty could be ratified by the Senate, and an appropriation to carry it into effect be made by Congress; and the necessity for such a delay might defeat the object altogether. I would, therefore, suggest whether it might not be wise for Congress to appropriate a sum such as they might consider adequate for this purpose, to be paid, if necessary, immediately upon the ratification of the treaty by Mexico. This disbursement would of course be accounted for at the treasury, not as secret service money, but like other expenditures.

Two precedents for such a proceeding exist in our past history, during the administration of Mr. Jefferson, to which I would call your attention. On the 26th of February, 1803, Congress passed an act appropriating two millions of dollars "for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations," "to be applied under the direction of the President of the United States, who shall cause an account of the expenditure thereof to be

¹ S. Doc. 107, 29 Cong. 2 Sess. 1.

laid before Congress as soon as may be;" and, on the 13th of February, 1806, an appropriation was made of the same amount, and in the same terms. The object, in the first case, was to enable the President to obtain the cession of Louisiana; and, in the second, that of the Floridas. In neither case was the money actually drawn from the treasury; and I should hope that the result might be similar, in this respect, on the present occasion, though the appropriation is deemed expedient as a precautionary measure.

I refer the whole subject to the Senate in executive session. If they should concur in opinion with me, then I recommend the passage of a law appropriating such a sum as Congress may deem adequate, to be used by the Executive, if necessary, for the purpose which I have indicated.

In the two cases to which I have referred, the special purpose of the appropriation did not appear on the face of the law, as this might have defeated the object; neither, for the same reason, in my opinion, ought it now to be stated.

I also communicate to the Senate the copy of a letter from the Secretary of State to Commodore Conner of the 27th ultimo, which was transmitted to him on the day it bears date.

JAMES K. POLK.

WASHINGTON, August 4, 1846.

TO MR. DAVIS.¹

DEPARTMENT OF STATE,

WASHINGTON, August 5, 1846.

SIR: On the 29th January and on the 25th March, 1844, the House of Representatives adopted the following Resolutions:

"Resolved, that the Judiciary Committee be instructed to inquire, and to report to this House, as far as practicable, the number of persons who applied for the benefit of the late bankrupt law, the number who were discharged from the payment of their debts under that law, the number to whom such discharge was refused by the courts, the number of applicants still pending, the aggregate number of creditors given in by the applicants, the aggregate amount of debts given in by them, the aggregate amount of property surrendered, the aggregate per centum paid on the aggregate debts given in out of the aggregate property surrendered, and the aggregate costs of the judicial proceedings had under the law. The whole of the above facts to be arranged in tabular form by states and territories respectively."

[Jan. 29, 1844.]

"Resolved, that the Judiciary Committee be discharged from

¹ H. Doc. 223, 29 Cong. 1 Sess. 2; MS. Report Book, VI. 215.

the further consideration of the resolution referred to them relative to the operation of the late Bankrupt Law, and that the same be referred to the President of the United States, and that he be requested to call for the information therein desired, and report the same to this House, at the earliest practicable day."

[*March 25, 1844.*]

The two resolutions having been referred by the President to this Department, with instructions to take necessary steps for obtaining the desired information, a letter was addressed to the Clerks of the respective District and Circuit Courts of the United States which had cognizance of Bankrupt cases under the act referred to, accompanied by a tabular form of the required statement.

I now have the honor to transmit these statements, so far as received [numbered from 1 to 27] and a summary thereof, in tabular form, prepared at this Department, together with such portions of the letters that accompanied them as refer to their contents.

In the letter addressed by this Department to the Clerks of Court, it was stated that "no appropriation has been made for this object; but there is no reason to doubt that, in this case, as in previous cases of a similar nature, the means will be provided by Congress for making to all persons employed in the task an adequate compensation for the service rendered by them."

Of the twenty-seven returns which have been received (from twenty-one states and territories) a portion were accompanied by accounts against the Government, or by statements of the amount of labor involved in their preparation, and of what would be deemed a fair compensation. Copies of these statements are also transmitted herewith.

I have the honor to be, &c.

JAMES BUCHANAN.

HON. JOHN W. DAVIS,
(Speaker of the H. of Rep.)

TO MR. McDUFFIE.¹

DEPARTMENT OF STATE,

WASHINGTON, 5th August, 1846.

TO THE HONORABLE GEORGE McDUFFIE,

Chairman of the Committee on Foreign Affairs,
Senate.

SIR:

Referring to the communication already made to you on the same subject, I have the honor to transmit herewith a note addressed to this Department by the Secretary of the Navy, enclosing an extract from a letter from Commodore Conner relative to a recommendation submitted to the Mexican Congress by the Executive Branch, to authorize the War Department to issue commissions to Privateers. I will ask the favor of you to return the enclosed papers, when no longer needed, to the files of this Department.

I have the honor to be, &c.,

JAMES BUCHANAN.

TO MR. LEWIS.¹

DEPARTMENT OF STATE,

WASHINGTON, 7th August, 1846.

TO THE HONORABLE DIXON H. LEWIS,

Chairman of the Committee on Finance in Senate.

SIR:

I am directed by the President to invite your attention to the propriety of making an appropriation in advance, providing for any expenditure which it may be necessary to make in advance for the purpose of settling all our difficulties with the Mexican Republic.

It is his sincere desire to terminate, as it was originally to avoid, the existing war with Mexico by a peace just and honorable to both parties. The chief obstacle to be surmounted in accomplishing this object will probably be the adjustment of a boundary between the two Republics which shall be satisfactory and convenient to both: and such as neither will hereafter be inclined to disturb. In the adjustment of this boundary, we

¹ MSS. Department of State, Report Book, VI. 217.

ought to pay a fair equivalent for any concessions which may be made by Mexico.

Under these circumstances, the President deems it important that a portion of this sum should be placed under his control, to be advanced, if need be, to the Government of that Republic, immediately upon their ratification of the treaty. It might be inconvenient for the Mexican Government to wait for the payment of the whole sum until the treaty could be ratified by our Senate, and all appropriation to carry it into effect made by Congress. Indeed, the necessity for this delay might defeat the object altogether. This disbursement of money, should it be made, would of course be accounted for at the Treasury, not as secret service money, but like other expenditures.

Two precedents for such a proceeding exist in our past history during the administration of Mr. Jefferson, to which I would call your attention. On the 26th February, 1803, an act was passed appropriating two millions of dollars, "for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the U. States and foreign nations," "to be applied under the direction of the President of the United States, who shall cause an account of the expenditure thereof to be laid before Congress as soon as may be;" and on the 13th February, 1806, an appropriation was made of the same amount and in the same terms. In neither case was the money actually drawn from the Treasury; and I should hope that the result in this respect might be similar, on the present occasion, although the appropriation may prove to be indispensable in accomplishing the object. I would therefore respectfully suggest to you, at the instance of the President, the passage of a law appropriating two millions of dollars, to be placed at his disposal, for the purpose which I have indicated.

I have the honor to be, Sir,

With great respect,

Your obedient servant,

JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.¹

DEPARTMENT OF STATE,

WASHINGTON, 8th August, 1846.

DON A. CALDERON DE LA BARCA,

&c., &c., &c., Spain.

Newport, Rd. Island.

SIR:

It affords me sincere pleasure to communicate to you a copy of the Act which has recently passed both Houses of Congress, and been approved by the President, directing the Secretary of the Treasury to refund the discriminating tonnage duties levied in the ports of the United States on Spanish vessels, since the Act of 1832, coming from foreign Countries, (except Cuba and Porto-Rico) : and to abolish these discriminating duties for the future. This act of justice to a faithful and friendly power has been too long delayed; but we can both congratulate ourselves that this delay has not arisen from any want of effort on our part to accomplish the object at an earlier period.

Whilst congratulating you on the happy termination of this protracted affair, permit me to express the hope that ere long the two Governments may agree upon some fair and equitable arrangement to remove the restrictions which now fetter the trade of the United States with the Islands of Cuba and Porto-Rico,—greatly to the injury of both parties.

I avail myself of this occasion to renew to you the assurances of my distinguished consideration.

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK

ON THE WAR WITH MEXICO.²

[August 8, 1846.]

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES:

I invite your attention to the propriety of making an appropriation to provide for any expenditure which it may be necessary to make in advance for the purpose of settling all our difficulties with the Mexican Republic. It is my sincere desire to terminate, as it was originally to avoid, the existing war with Mexico by a peace just and honorable to both parties. It is probable that the chief obstacle to be surmounted in accomplishing this desirable object will be the adjustment of a boundary between the two Republics

¹ MSS. Department of State, Notes to Spanish Legation, VI. 139.² Richardson's Messages and Papers of the Presidents, IV. 459-460.

which shall prove satisfactory and convenient to both, and such as neither will hereafter be inclined to disturb. In the adjustment of this boundary we ought to pay a fair equivalent for any concessions which may be made by Mexico.

Under these circumstances, and considering the other complicated questions to be settled by negotiation with the Mexican Republic, I deem it important that a sum of money should be placed under the control of the Executive to be advanced, if need be, to the Government of that Republic immediately after their ratification of a treaty. It might be inconvenient for the Mexican Government to wait for the whole sum the payment of which may be stipulated by this treaty, until it could be ratified by our Senate and an appropriation to carry it into effect made by Congress. Indeed, the necessity for this delay might defeat the object altogether. The disbursement of this money would of course be accounted for, not as secret-service money, but like other expenditures.

Two precedents for such a proceeding exist in our past history, during the Administration of Mr. Jefferson, to which I would call your attention: On the 26th February, 1803, an act was passed appropriating \$2,000,000 "for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations," "to be applied under the direction of the President of the United States, who shall cause an account of the expenditure thereof to be laid before Congress as soon as may be;" and on the 13th of February, 1806, an appropriation was made of the same amount and in the same terms. In neither case was the money actually drawn from the Treasury, and I should hope that the result in this respect might be similar on the present occasion, although the appropriation may prove to be indispensable in accomplishing the object. I would therefore recommend the passage of a law appropriating \$2,000,000 to be placed at the disposal of the Executive for the purpose which I have indicated.

In order to prevent all misapprehension, it is my duty to state that, anxious as I am to terminate the existing war with the least possible delay, it will continue to be prosecuted with the utmost vigor until a treaty of peace shall be signed by the parties and ratified by the Mexican Republic.

JAMES K. POLK.

WASHINGTON, August 8, 1846.

TO MR. KING.¹

(No. 35.)

DEPARTMENT OF STATE,

WASHINGTON, 12th Augt., 1846.

WILLIAM R. KING, ESQRE.,
&c., &c., &c.

SIR:

I have submitted to the President the request contained in your despatch No. 30, of the 15th ultimo, to be recalled from your mission. Although he regrets that the country will lose

¹ MSS. Department of State, Instructions, France, XV. 41.

your valuable services as Minister to France, he has, nevertheless, determined to accede to your wishes. Whilst granting your request, he has instructed me to say, that he is deeply sensible of the patriotism, prudence, and ability with which you have performed the duties of your important mission; and I may be permitted to add that it affords me sincere pleasure to be the organ of his approbation.

I transmit to you, herewith, a letter of recall (and an office copy of the same, for your own use,) to be presented to the King at your audience of leave, should such an audience be granted; and, if not, to be communicated to His Majesty in the manner most agreeable to his wishes, as they may be made known to you through the Foreign Office.

You will deliver to J. L. Martin, Esqre., the Secretary of Legation, the archives of the Legation, who will act as Chargé d'Affaires, *ad interim*, until your successor shall arrive in Paris.

Your despatches to No. 31, inclusive, have been duly received at this Department.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. MANN.¹

(No. 2.)

DEPARTMENT OF STATE,

WASHINGTON, 12th August, 1846.

To A. DUDLEY MANN, ESQRE.,
&c., &c., &c., Hanover.

SIR:

Your despatch, not numbered, dated at London on the 17th June last, accompanied by the Treaty which you have concluded with Hanover, was received at this Department on the 6th July. The Treaty was immediately submitted to the President and received his approbation.

On the 7th day of July, it was communicated by him to the Senate for their consideration. In that Body, it encountered unexpected difficulties and delays. A portion of the Senators are opposed to Treaties of reciprocity, so far as our indirect trade

¹ MSS. Department of State, Special Missions, I. 245.

is concerned; and although the equivalents for this concession contained in the Treaty with Hanover were considered sufficient, yet objection was made to that clause in the 13th Article, which authorises the Hanoverian Government, at any time, after one year's notice, to increase the duty on Tobacco.

Although I believe a Constitutional majority of the Senate would have ratified this Treaty without amendment, yet it was postponed from time to time in consequence of these objections and the pressure of other business, until the Session was about to expire. Finally, in order to secure its ratification before the adjournment of Congress, I consented that it might be amended, by limiting its duration absolutely to the term of twelve years, amending it for this purpose, by striking out the clause for its continuance after this period, until one or other of the parties shall have given twelve months' notice of their intention to terminate it.

With this amendment it would have passed the Senate, I believe, unanimously, had they gone into Executive Session during the last day of their sitting. This was prevented by the pressure of Legislative business; and thus not only the Hanover Treaty but several important Executive nominations failed.

You may, in my opinion, confidently assure the Minister for Foreign Affairs of Hanover, that the Treaty will be ratified by the Senate, at an early period of their next Session, either with or without the single amendment, which I have already indicated, limiting its duration absolutely to the term of twelve years.

The President deems it important that you should proceed to Hanover, if this despatch does not find you there, for the purpose of making these explanations. After having performed this duty, you will return immediately to the United States. In the mean time, as Mr. Trist informs me you will require a further advance on account of your pay and expenses, I have authorized you to draw upon Messrs. Baring, Brothers & Co., for the sum of six hundred dollars. I enclose you a duplicate of my letter to them.

The President directs me to express his approbation of all your proceedings in concluding the Treaty: and you may assure the Government of Hanover of his continued desire to cultivate the most friendly relations, and to extend the commercial intercourse between the two countries.

Your despatches of May 15th and May 30th 1846, dated at Hanover, and of June 17th and June 27th 1846, dated at London, have been duly received at this Department. None of them are numbered.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO GENERAL ALVEAR.¹

DEPARTMENT OF STATE,

WASHINGTON, August 14, 1846.

The Undersigned, Secretary of State, has had the honor to receive the note of His Excellency General Don Carlos de Alvear, Minister Plenipotentiary and Extraordinary of the Argentine Confederacy to the United States, dated on the 20th July, last, together with the original letter dated at Buenos Ayres on the 19th March, last, addressed by Mr. Edward A. Hopkins to the Most Excellent Governor and Captain General, Brigadier Don Juan Manuel de Rosas, charged with the Foreign Relations of the Argentine Confederacy.

In compliance with the request of General Alvear, both his note and the letter of Mr. Hopkins have been submitted to the President, who has directed the Undersigned to return the following answer.

The Government of the Argentine Republic has done the President of the United States no more than justice in attributing to him the most friendly feelings towards that Republic and its distinguished Chief. It was then with the deepest pain and mortification that he perused the letter of Mr. Hopkins to General Rosas: and he directs me to express his sincere regret that any individual who had been entrusted by him with an agency abroad should have been guilty of so rash and improper an act.

The friendship of the President for the Argentine Republic has already been clearly manifested by his conduct in regard to Mr. Hopkins himself. That gentleman was sent abroad as a special agent to Paraguay, merely for the purpose of obtaining the information necessary to enable the President and Congress to decide whether its independence ought to be recognized by

¹ MSS. Department of State, Notes to Argentine Republic, VI. 19.

the United States. This was done in accordance with the general policy and practice of the Government of the United States to recognize the independence of all nations and States which had proved themselves to be *de facto* independent and capable of maintaining their independence.

Mr. Hopkins was not furnished with any letter of credence to the Minister for Foreign Affairs of Paraguay, nor with any power whatever to negotiate or to act in a diplomatic character. Within a few days after it was discovered that he had violated his instructions by representing himself to the President of Paraguay as invested with a diplomatic character, by committing the President and Congress of the United States to him in favor of recognizing the independence of that country and by offering the mediation of the United States between the Governments of Paraguay and Buenos Ayres, he was peremptorily recalled. His letter of recall bears date on the 30th March, last; and thus the only punishment within the power of the President had been inflicted upon him nearly four months before the receipt of Your Excellency's communication.

Having resided so long in this country, Your Excellency is aware that a citizen of the United States can only be punished for the commission of a crime previously defined by law after trial and conviction before a Court and Jury. The offence of writing an insolent letter to the head of a Foreign Government when committed within the jurisdiction of that Government is not punishable by law either in the Courts of the United States or of the several States.

The Undersigned trusts that this explanation will prove satisfactory to General Rosas, and that the unauthorized and highly improper conduct of Mr. Hopkins will not be suffered to interfere, in the slightest degree, with the cordial and friendly relations now so happily subsisting between the two Republics, and which the President is anxious perpetually to preserve.

The Undersigned avails himself of this occasion to offer General Alvear renewed assurances of his most distinguished consideration.

JAMES BUCHANAN.

TO THE BRIGADIER GENERAL DON CARLOS DE ALVEAR,
&c. &c. &c.

TO MR. DONELSON.¹

(No. 6.)

DEPARTMENT OF STATE,

WASHINGTON, 14th August, 1846.

ANDREW J. DONELSON, ESQRE.,
&c., &c., &c.

SIR:

Your despatch (No. 2.) of the 15th July last has been received. A strange mistake has most probably occurred, in regard to the terms in which the King of Bavaria has ratified the Convention of the 21st January, 1845. Not understanding the German language myself, I was obliged to trust to the information of the Translator or some other clerk in the Department; and when I wrote my despatch to Mr. Wheaton of the 25th April last, I firmly believed that the Bavarian ratification contained no assent to the amendment which had been adopted by the Senate. It was for the purpose of having this supposed mistake corrected that you carried back the copy of the Convention to Berlin.

I am now informed by the note of Count Lerchenfeld to Mr. Wheaton, of the 10th July last, that the ratification of the King has recognised and adopted the amendment of the Senate. Mr. Wheaton, doubtless believing that I had a knowledge of this fact, has construed my instructions to him literally, and has endeavored to have the words "real and" actually expunged from the text of the Convention. This would have been highly improper, and would have changed the true history of the transaction. The amendment of the Senate is, to "strike out from the third article the following words,—'real and;'" but this is never understood literally.

If, therefore, upon examination, you shall ascertain that the Bavarian ratification, in terms, assents to the amendment of the Convention adopted by the Senate, you will return it to the Department by the first good opportunity, so that it may be proclaimed by the President. I would thank you, also, to read this Despatch to Count Lerchenfeld.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

P. S.—Upon a consideration of all the circumstances, and

¹ MSS. Department of State, Instructions, Prussia, XIV. 102.

especially of the fact that the King of Bavaria has published the Convention officially, in conformity with the amendment of the Senate, the President has determined to issue the Proclamation on his part, without further delay.

J. B.

TO GOVERNOR COLEBROOKE.¹

DEPARTMENT OF STATE,
WASHINGTON CITY, August 17, 1846.

TO HIS EXCELLENCY,

SIR WILLIAM COLEBROOKE,

(Governor of New Brunswick.)

SIR:

Your Excellency has already received, through Mr. Pakenham, Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States, a copy of my note of the 4th June last, addressed to him, stating the objections made by the states of Maine and Massachusetts to the account furnished by the Government of New Brunswick under the fifth article of the Treaty of Washington, of the receipts and payments of the "Disputed Territory fund."

After consultation with Mr. Pakenham, we arrived at the conclusion, that the most speedy and satisfactory mode of adjusting this account would be for these two states to appoint agents to proceed to Frederickton for that purpose. Accordingly, on my suggestion, the bearers hereof, John Hodsdon and George W. Coffin, Esquires, have been appointed such agents, the first for the state of Maine and the second for that of Massachusetts. I trust that through their instrumentality this account may be finally settled to the satisfaction of all parties; and permit me to request that your Excellency may afford them all necessary facilities to enable them to accomplish this desirable object.

I avail myself of the occasion to offer to your Excellency the assurance of my distinguished consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 66.

TO GOVERNOR ANDERSON.¹

DEPARTMENT OF STATE,
WASHINGTON, Aug. 18, 1846.

TO HIS EXCELLENCY,

H. J. ANDERSON,

(Governor of Maine.)

SIR:

In accordance with the request contained in your communication of the 2d instant, I have the honor to enclose to your Excellency herewith an open letter of introduction addressed to the Lieut. Governor of New Brunswick, for the agents appointed by Maine and Massachusetts to investigate and adjust the "Disputed territory fund" account.

Mr. Pakenham left this city unexpectedly on Saturday last for the North; and I have written to him and requested that he might forward under cover to your address a letter of introduction similar to my own to the Lieutenant Governor of New Brunswick for these gentlemen, which you may expect to receive very soon after this shall reach you.

I have the honor to be, your Excellency's obedient servant,
JAMES BUCHANAN.

TO MR. CARR.²

(No. 25.)

DEPARTMENT OF STATE,

WASHINGTON, 18th August, 1846.

DABNEY S. CARR, ESQRE.,

&c., &c., Constantinople.—

SIR:

This will be delivered by Dr. James Belton Davis, of South Carolina, a cotton-planter of that State, and one of the two gentlemen whom I have engaged in compliance with the Sultan's wishes, to proceed to Constantinople,—as will be perceived from the enclosed copy of the Contract which I have made with them.

The other, Dr. J. Lawrence Smith, will probably embark in the Steamer of the 16th of September. It was their intention

¹ MSS. Department of State, 36 Domestic Letters, 67.

² MSS. Department of State, Instructions, Turkey, I. 319. Mr. Carr was commissioned minister resident to Turkey, Oct. 6, 1843. He remained at Constantinople till Oct. 20, 1849. He was from Maryland.

to go together, but Dr. Smith having found it impossible to complete his arrangements for leaving the United States before the middle of next month, Dr. Davis determined to proceed immediately, because he deems it of the highest importance to the object for which he goes to Turkey, that he should have an opportunity of observing the changes which plants undergo during the fall of the year in that climate. This opportunity, he says, will be invaluable towards acquiring that acquaintance with the laws of vegetation in Turkey, and the peculiarities which it may there exhibit, which is indispensable to success in carrying out the Sultan's views; and it is for the purpose of securing it that he has made every exertion to be off in the Steamer which leaves New-York the day after to-morrow.

The enclosed copy of a letter addressed to me by the Hon: F. H. Elmore, of South Carolina, formerly one of the Representatives in Congress from that State, and of my reply, will enable you to explain to the Sultan the reasons which I have for felicitating myself on the manner in which I have been enabled to fulfil his request. He will, I feel very sure, find in these gentlemen all that he could possibly desire both as regards qualifications and character; and I have no doubt whatever of their proving themselves in every respect worthy of his confidence. I had no distrust of the fitness of the gentleman who, as Mr. Brown has been informed, was engaged by Mr. Plitt, subject to my approval of the terms. He, however, declined to accede to a modification which I deemed it due to the interests of the Sultan to introduce in that provisional contract; and to his refusal the Sultan's enterprize is indebted for the good fortune which has placed it under the conduct of the two gentlemen now engaged; in whom will be found combined all the requisites to its triumphant success, unless this should be rendered impracticable—and they do not apprehend that it will prove so—by the peculiarities of the soils and climates where the experiment is to be made.

On your part, you will, I am persuaded, take great pleasure in welcoming them to Constantinople, and showing them every kindness in your power.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. CRAMPTON.¹

DEPARTMENT OF STATE,
WASHINGTON, 18th Augt., 1846.

JOHN F. CRAMPTON, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to enclose to you, herewith, a copy of a letter which I have addressed to His Excellency the Lieutenant Governor of New Brunswick, in behalf of the agents appointed by Maine and Massachusetts to investigate the Disputed Territory Fund Account; and to state that any communication which Mr. Pakenham may think proper to make to His Excellency, in favor of those Agents, will reach them if it be sent to His Excellency H. J. Anderson, the Governor of Maine, at Augusta, in that State.

I avail myself of this occasion to offer to you the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. PAKENHAM.²

DEPARTMENT OF STATE,
WASHINGTON, 18th Augt., 1846.

RIGHT HONBLE. RICHARD PAKENHAM,
&c., &c., &c.

SIR:

John Hodsdon and George W. Coffin, Esquires, have been appointed Agents, the former by the State of Maine, and the latter by that of Massachusetts, to investigate and adjust the

¹ MSS. Department of State, Notes to Great Britain, VII. 144. John Fiennes Twiston Crampton, after serving for some years as secretary of the British Legation at Washington, and acting as chargé d'affaires ad interim from May 21, 1847, to Dec. 24, 1849, and from Aug. 13, 1851, to Feb. 14, 1852, presented his credentials as envoy extraordinary and minister plenipotentiary on the day last named. On May 28, 1856, the government of the United States discontinued relations with him and sent him his passports, because of his implication in the recruitment of men in the United States for the British service in the Crimea, in violation of the neutrality laws of the United States. Much correspondence with regard to this incident will be found further, during the time when Mr. Buchanan was minister to England.

² MSS. Department of State, Notes to Great Britain, VII. 145.

Disputed Territory Fund Account furnished by the Government of New Brunswick, under the fifth article of the treaty of Washington. I would thank you, in conformity with our understanding, to furnish these gentlemen such a letter of introduction to His Excellency the Lieutenant Governor of New Brunswick as will procure for them the facilities necessary to accomplish the object of their mission in a satisfactory manner. This may be addressed under cover to His Excellency H. J. Anderson, the Governor of Maine, at Augusta, in that State.

Messrs. Hodsdon and Coffin will proceed upon their mission immediately after they shall have received your letter.

I avail myself of the occasion to renew to you, Sir, the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. PALFREY.¹

DEPARTMENT OF STATE,

WASHINGTON, 18th August, 1846.

JOHN G. PALFREY, ESQ.

&c. &c. &c.

SIR:

I have the honor to enclose to you an open letter of introduction, addressed to the Lieutenant Governor of New Brunswick, for the agents appointed by Maine and Massachusetts to investigate and adjust the Disputed Territory fund account, and to inform you that, in a few days, a similar letter from Mr. Pakenham for these gentlemen will be forwarded under cover to the Governor of Maine. This is not done at present in consequence of the unexpected departure of Mr. Pakenham from this city to the North.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 67.

FROM MR. RUSH.¹

SYDENHAM, NEAR PHILADELPHIA,
August 18, 1846.

MY DEAR SIR,

I have to pray your excuse for the trouble of this letter.

I wish to have all the documents respecting Oregon that accompanied the President's message to the Senate of the 21st of July. They were given in the Union, which I take, but so often miss, through one bad chance or other at the post office, that I have not these documents; and as they are generally published in the pamphlet form, I would feel greatly indebted to you if (having a copy to spare) you would have the goodness to direct it to be enclosed to me, as I know not where else to seek it. Sometimes I am meditating one more volume on our relations with England, the Oregon question closing the list of the historical ones growing out of our Revolution; and I desire at any rate to gather up the authentic documents bearing on that question, which seem to me, with the facts they furnish, to supply the materials perhaps of some reflections also, at this new and remarkable epoch of our affairs. On the whole, I think you made a wise settlement of that long-pending difficulty. My own impression was ever very strong, that England was ready to appeal to the sword, unless she got territory and advantages south of 49°; and I will candidly own to you that she took up with fewer at last than I supposed she would have done. This I ascribe to the energy and whole course of our government, since Mr. Polk came in, at which I was a little startled at first, but it came out nobly; and what a fine prospect the settlement now opens to us of intercourse with England, in connexion with our new tariff!

On this latter head, will not England now do something for our tobacco, and become wholly liberal in the arrangements of her West India trade with us? Our new tariff may well justify us in urging her on these and other points in which she is still much behind the liberality of our own system.

I am sincerely glad that your services are retained in the Department of State. If I might claim to speak, I should say that it is due both to your country and self, that, having accomplished so much of good in that station already, you should continue in it to do more.

How ill-judged, I would almost say criminal, in the Senate, to have refused the President the small sum he asked towards the executive plans with Mexico! Reading lately a life of Mirabeau, I was much struck with a remark quoted from Madame de Sévigné, that "*there is nothing so expensive as want of money.*" What may be the executive plans precisely in regard to Mexico, I of course know not; but I can conceive that to have given the President those two millions in hand he asked for, might have saved the ultimate expenditure of fifty or a hundred millions.

I remain my dear sir with sincere respect & esteem very faithfully yours
RICHARD RUSH.

THE HONORABLE JAMES BUCHANAN.

¹ Buchanan Papers, Historical Society of Pennsylvania; Curtis's Buchanan, I. 607.

TO MESSRS. KIRKLAND AND CHASE.¹

DEPARTMENT OF STATE,
WASHINGTON, August 19, 1846.

MESSRS. KIRKLAND AND CHASE

(Baltimore)

GENTLEMEN:

I have received your letter of the 17th instant, and, in compliance with your request, hasten to give it an answer.

That the Government of the Argentine Confederation is greatly, as it is justly, incensed at the conduct of those American vessels which ascended the Parana on a warlike expedition, under the flag and protection of Great Britain and France, is evident from the decree, a copy of which I transmit herewith.—These vessels thus violated the neutrality of their country, and forfeited its protection during the time they formed a part of that expedition.

This Government always affords protection to its merchant vessels throughout the world; but I can give you no advice in advance as to the course you ought to pursue. Should the exigency occur, we shall then consider all the circumstances and decide according to justice and the law of nations.

It is very certain, however, that "The Creole" will be no favorite at Buenos Ayres: and it may be well for you to determine, whether, upon the supposition that redress would be demanded from the Argentine government for any injury which she might sustain in that port, you ought to incur the risk of sending her thither at the present juncture.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 70.

TO MR. LARKIN.¹

DEPARTMENT OF STATE,

WASHINGTON, Aug. 19, 1846.

THOMAS O. LARKIN ESQRE.

U. S. C. Monterey.

SIR,

On the 4th instant, the Hon: George Evans, U. S. Senator from Maine, referred to this Department a letter addressed to him by Alexander S. Chadwick, covering a Deposition made before him by George Reed, upon the subject of information derived by the said Reed at Monterey from William Jones, one of the Crew of the Brig "Helen," from which it appears that this Vessel was taken by "Mexican Pirates" in the fall of 1833, and her Crew put in Irons & sent to work in the Mines of Mexico.

I transmit herewith copies of these papers, and request that you will use your best efforts to ascertain the truth of the facts set forth, and to obtain in regard to this subject generally all the information which can be procured; the result to be communicated to this Department, with the Deposition of the said Jones under your Official Seal. It will be perceived by you that the account of this very mysterious affair given in Reed's Deposition is rendered exceedingly unsatisfactory by the absence of all reference to the manner in which Jones was transferred from the Island of Cuba to the Mines in Mexico where he was detained and kept at work a little more than three years, when he effected his escape to California. According to Reed's deposition, Jones represented the Brig to which he belonged as having been captured when "some days out of port," (Norfolk, Virginia) "and taken to a port," (Mr. Chadwick's letter says, *not* a "port," but a place on the Coast) "near Cape St. Antonio, in the Brig." There he "was taken out and put on board a boat and taken up a river for two or three days' journey; from thence travelled by land three or four days more; he was then taken to the Mines."

Cape St. Antonio (a place noted as the resort of pirates) being on the Island of Cuba, and no mention being made of any sea Voyage from the time they reached there, Jones must, agreeably to this account, have been taken up a river *in that* Island. How then did he get from Cuba to Mexico? It is manifest, that if the statement made by Jones be true, he cannot possibly have

¹ MSS. Department of State, Despatches to Consuls, XI. 493.

omitted so important a link in the chain of his narrative. On the supposition that it has any foundation in truth, the story, as given in Reed's deposition, must therefore be inaccurate. The version of the matter presented in the enclosed article from the Baltimore Sun of the 17th inst: copied from the Bath (Maine) Inquirer, will be seen to be free from this defect, and to differ in other respects also from the one given in Reed's deposition.

I am, Sir, &c.

JAMES BUCHANAN.

TO MR. TOBY.¹

DEPARTMENT OF STATE,

WASHINGTON, Aug. 19, 1846.

SIMEON TOBY, ESQR.

Presidt. Insurance Co. of Penna., Philada.

SIR:

I have to acknowledge the receipt of your letter of yesterday, and, agreeably to its request, a copy of the convention concluded by Mr. Bidlack in the case of the Josephine is herewith transmitted. You will notice that the instalments are payable at Bogota in current money of New Granada. According to information received from Mr. Bidlack, this money is at a discount there, compared with gold, of from twelve to sixteen per cent., and it is difficult, if not impossible, to obtain gold even at that rate. As that metal was the only eligible medium of remittance which he was aware of, he has expressed a desire to know at what premium bills on England would be preferable. Any other suggestions which you may think proper to make to him with a view to enable your company to realize as much as possible from the payments to be made by that Government would no doubt be acceptable to him.

Mr. Shields, the Chargé des Affaires of the United States at Caracas, shall be informed of the adjustment effected by Mr. Bidlack in this case, and shall again be instructed to endeavor to obtain payment of the proportion due by the Government of Venezuela.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 71.

TO MR. HUREN.¹

DEPARTMENT OF STATE,
WASHINGTON, August 20, 1846.

EDWARD HUREN, Esq.
(St. Louis, Missouri.)

SIR:

Your letter of the 13th instant has been received, in which you "enclose a certificate in behalf of Fred. Schulenberg, a respectable resident of this county, who intends to start in a few days on a journey to Europe, but having neglected to take the necessary steps for his final admission as a citizen, and there being no court in session at this moment to which he could apply, he is now without the certificate of naturalization required by the circular lately received.—I enclose, however, the certificate of his first declaration, and respectfully suggest whether the Department could, under the circumstances, grant the applicant a passport."

I regret to say, that this is impossible. This Department has authority to grant passports only to Citizens of the United States. The passport certifies that the bearer *is* a citizen; and you will readily perceive that such a certificate cannot be given to any one not a native citizen, until every requisite prescribed by law to his becoming a citizen has been actually fulfilled.—His intention to become so may be ever so manifest, and his right to become so at any moment he pleases may be ever so clear and unquestionable; still, this does not make him one; on the contrary, it renders it certain that he is not one. This is the plain letter, and the plain meaning and operation of the law, and the subject is one in regard to which the Department possesses no discretionary power whatever.

I regret that Mr. Schulenburg should be put to any inconvenience in consequence of his omission to fulfil the requirements of the law, but I have no authority to relieve him therefrom.

As they may be wanted, the two certificates accompanying yr. letter are herewith returned.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 73.

TO MR. NORVELL.¹

DEPARTMENT OF STATE,
WASHINGTON, Aug. 20, 1846.

JOHN NORVELL, Esq.

(Atty. of the U. S. for the Dt. of Detroit, Mich.)

SIR:

You will perceive by the enclosed copy of papers, which contain a statement of the case of Joseph Wilson, Agent of the Crown Land Department at Sault Ste. Marie, Lake Superior, that the British Government has preferred a complaint against the authorities of the state of Michigan in which it is alleged that said Wilson was arrested and imprisoned for having in the performance of his duty as an officer of the Government of Canada, seized a quantity of timber illegally cut by persons from the American side of the river, from Jona's or Squirrel island.

As it appears from an inspection of the boundary line laid down on the map signed by the Plenipotentiaries who negotiated the Treaty of Washington, as well as from the second article of the treaty itself, that Jona's island actually belongs to Great Britain, it is necessary that a strict enquiry be instituted into the facts upon which this complaint is founded; and you are, therefore, instructed to examine the particulars of the case, and to report them to this Department as fully and with as little delay as possible.

I am, &c.

JAMES BUCHANAN.

TO M. PAGEOT.²

DEPARTMENT OF STATE,
WASHINGTON, 22d Aug., 1846.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, enclosing the decree by which the Commander of the Isles of St. Pierre and Miquelon has prescribed the assimilation of American vessels sent from the ports of the

¹ MSS. Department of State, 36 Domestic Letters, 74.

² MSS. Department of State, Notes to French Legation, VI. 96.

Union to those Islands with French vessels arriving from those ports at the same Islands; and requesting that measures may be adopted for the extension of the act of Congress of the 3d of March, 1845, which assures to French vessels coming from St. Pierre and Miquelon the treatment of American vessels.

The President, to whom your communication was referred, has instructed me to express his regret, that from the precise terms of the act of March 3d, 1845, he does not feel himself authorized to issue the proclamation which it requires. That act declares, that, before the proclamation can issue, he must receive satisfactory information that no higher tonnage duties are levied in the Islands of Miquelon and St. Pierre on American than on French vessels. Now, it appears from the decree of the Commander of these Islands, that a tonnage duty is levied on American vessels for an interpreter from which French vessels are relieved. The language of the decree itself is that American vessels "shall pay no other duties than the same which are imposed on French vessels, *with the exception, however, of the duty for the interpreter, from which the latter are naturally exempt.*"

It is cheerfully admitted that this duty is very small and not more than a just compensation for the services of an interpreter when one is required; but still it is a tonnage duty levied as a matter of right on all American vessels entering the ports of Miquelon and St. Pierre, from which French vessels are exempt. Had the President any discretion in the premises, he would disregard this discrimination and issue the proclamation immediately; but he is acting under a limited authority to which he must yield obedience.

In order to remove the difficulty in the easiest manner possible, he has instructed me to inform you that if you feel authorized to declare that this duty shall not be paid by American vessels without the free consent of their masters, and that they shall be at liberty, if they think proper, to employ any translator whom they may select, he will issue the proclamation immediately.

I avail myself of the occasion to renew to you the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. FORNEY.¹

WASHINGTON 22 August 1846.

JOHN W. FORNEY Esq.

My DEAR SIR,

I shall write no letter without proper precaution, and a perfect knowledge of what I am doing. Such a letter would most probably have been unnecessary, had I succeeded in impressing my opinion on the Pennsylvanian. Had it taken ground against the repeal of the present law and the consequent revival of the Tariff of 1842, but in favor of an increase of duties on coal and iron, this would have been a point on which the Democracy of Pennsylvania could have united. I entertain much confidence that such a modification can be obtained from the present Congress, at their next session.

At present the party are dividing on extreme measures. Whilst several of the Journals, under the lead of the Pennsylvanian, and some of the people, advocate the law as it now stands, a large portion of the remainder are in favor of restoring the Tariff of 1842. It is that we may be relieved from this dilemma & unite the party on a common ground, that I am appealed to by leading Democrats from different portions of the State to express my opinion on the subject. My letter is already prepared; but I shall not send it until after the return of the President from Old Point. He is expected on Tuesday next.

from your friend sincerely

JAMES BUCHANAN.

TO MR. MASON.²

DEPARTMENT OF STATE,

WASHINGTON, 24th August, 1846.

HON. JOHN Y. MASON,

Attorney General of the U. States.

SIR:

I have the honor to acknowledge the receipt of your letter of the 15th instant, upon the subject of the claim of citizens of

¹ Buchanan Papers, Historical Society of Pennsylvania.² MSS. Department of State, Report Book, VI. 219. For a history of this convention and the proceedings thereunder, see Moore, International Arbitrations, V. 4591.

the U. States against the Government of Peru, provided for by the Convention of the 17th of March, 1841, the duty of adjudicating which has been devolved upon you by a late act of Congress. Agreeably to your request, a copy of a note, under date the 12th May, 1832, addressed by Mr. Samuel Larned, then Chargé d'Affaires of the U. States at Lima, to the Minister of Foreign Relations of Peru, and of the list of claims which accompanied it, is herewith transmitted. The papers relating to the claims which were on file in this Department are likewise now communicated, and, also, those which were in the archives of the Legation at Lima. Pursuant to directions from the Department the latter were sent hither by Mr. Pickett shortly after the conclusion of the Convention. I have caused both series to be carefully arranged, classified, and numbered consecutively from 1 to 171, and the descriptive list of them to be prepared, which is also herewith communicated.

In answer to your inquiry as to whether there has been any alteration in the terms of the Convention, I have to state, that the Congress of Peru did not act upon it until last year. The following is the result of their deliberations as communicated in a note from the Peruvian Minister of Foreign Affairs to Mr. Jewett, our Chargé d'Affaires at Lima, under date the 15th November, 1845:

The first annual instalment of thirty thousand dollars on account of the principal of the debt shall begin from the 1st of January, 1846, and the interest on this annual sum, according to Article 3, shall be calculated and paid from the 1st January, 1842, following in all other respects beside this modification the terms of the Convention.

Upon receiving intelligence of this modification, the Department consulted some of the principal claimants, who agreed to accept it. The President then referred the subject to the Senate, who having also advised and consented to the modification, it was ratified by the President, and Mr. Jewett has been instructed to obtain the corresponding ratification of the Executive of Peru. No intelligence has yet reached the Department as to his proceedings with reference thereto.

I have the honor to be, Sir, &c.

JAMES BUCHANAN.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, 24th Augt., 1846.

SIR: Referring to the note which I had the honor to address to you on the 18th of May last, I enclose, herewith, printed copies of the circular instructions recently issued to the Collectors of the Customs U. S. relative to refunding the excess of duties exacted on certain articles the growth, produce, or manufacture of British territories in Europe: accompanied by a list of articles on which, according to the information at present in possession of the Treasury Department, claims may be presented under the stipulations of the existing convention with Great Britain, in connexion with the provision of the 25th section of the tariff act of 30th August, 1842.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

THE RIGHT HONBLE. RICHARD PAKENHAM, &c., &c., &c.

TO SEÑOR CALDERON DE LA BARCA.²

DEPARTMENT OF STATE,

WASHINGTON, 25th August, 1846.

DON A. CALDERON DE LA BARCA,
&c., &c., Spain.

SIR:

With reference to the subject of my note to you of the 8th instant, I have now the honor to communicate a printed copy of a circular from the Treasury Department to Collectors of the Customs, under date the 16th instant, accompanied by a copy of the Act of Congress of August 3rd last, upon which it is founded. A portion of this circular will be seen to relate to the tonnage duty charged upon Spanish vessels in certain cases.

I take this occasion to renew to you the assurances of my high consideration.

JAMES BUCHANAN.

¹ H. Ex. Doc. 38, 30 Cong. 1 Sess. 22; MS. Notes to Great Britain, VII. 146.

² MSS. Department of State, Notes to Spanish Legation, VI. 140.

TO CHEVALIER HÜLSEMANN.¹

DEPARTMENT OF STATE,
WASHINGTON, 25th August, 1846.

CHEVALIER HÜLSEMANN,
&c., &c., Austria.

SIR: I received yesterday, your note of that date, informing me that you had just received the orders of your Government to ascertain whether the Government of the United States would be disposed to conclude with Austria a Convention similar to those with England and France, for the Extradition of criminals; and proposing, also, in view of certain difficulties which have arisen in regard to the execution of the existing Treaty between the United States and Austria, to use the same occasion for removing them by additional articles. You request that these propositions may be submitted to the President; of whose views thereon, you desire to be informed.

Early this morning, a note was sent to your lodgings, inviting you to a conference on the interesting overtures so made by you; and I was surprised to learn that you had already left the Seat of Government. As a personal conference would appear to be an indispensable preliminary to the arrangements suggested, I can do no more on this occasion than inform you, that I shall be prepared to enter upon the discussion of the subjects, at any time when it may suit your convenience to pay Washington a visit for the purpose.

I am, Sir, with great consideration,
Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to German States, VI. 141.

TO MR. MARTIN.¹

DEPARTMENT OF STATE,

WASHINGTON, 25th August, 1846.

MARTIN MARTIN, ESQRE.,

Vice-Consul of the Two Sicilies,
New-York.

SIR:

In the absence of Signor Palmieri, I have the honor to transmit to you, for the information of your Government, copies of Circular Instructions of the Treasury Department, under date the 18th instant, accompanied by a copy of the Treaty between the United States and the Two Sicilies, which went into operation on the 1st December last. By this Circular, as you will perceive, the Collectors of the Customs are apprised that all white and red wines of the Two Sicilies, including those of Marsala, imported directly into the United States, in vessels of either country, since the 1st December, 1845, are entitled to entry at the lowest rates of duty charged upon the white and red wines of any other country; and that importers of said wines entered since that date, who have paid the duties chargeable thereon under the Tariff of 30th August, 1842, are entitled to have the excess refunded to them.

I am, Sir, very respectfully,

Your most obedient servant,

JAMES BUCHANAN.

TO MR. MATTHEWS.²

DEPARTMENT OF STATE,

WASHINGTON, Aug. 25, 1846.

CORNELIUS MATTHEWS, Esq.

(140 Nassau Street, New York.)

SIR:

I have the honor to acknowledge the receipt of your letter of the 18th ultimo, referring to those previously addressed by you to this Department on the subject of "an international copy-right arrangement by Treaty."

In the first of these, under date April 22d 1846 (the receipt

¹ MSS. Department of State, Notes to Italian States Legation, VI. 92.² MSS. Department of State, 36 Domestic Letters, 79.

of which was immediately acknowledged as requested) you transmitted a communication addressed to the President by Wm. C. Bryant and others, referring to the "rumors of negotiations and treaties with England," and asking "that an international copy-right arrangement be made a feature of any Treaty between England and America, tending to adjust the respective claims of each," &c.

The publication of the documents relating to the Oregon treaty will have made you aware how impossible it was for the President, after the advice of the Senate had been given in favor of the British proposition, to delay the execution of the Treaty until an article could have been agreed upon settling the international copy-right question between the two powers. That information could not have been communicated to you of the state of the negotiation previously to the submission of the British proposition to the Senate is equally evident.

In the course of a few weeks a new Minister will be appointed to London. In the mean time the President will decide whether to leave the interesting question to Congress, or attempt to adjust it by negotiation. If he should adopt the latter course, every effort shall be made on my part to bring it to a satisfactory conclusion.

I am &c.

JAMES BUCHANAN.

TO MR. SAUNDERS.¹

(No. 4.)

DEPARTMENT OF STATE,

WASHINGTON, 25th August, 1846.

ROMULUS M. SAUNDERS, ESQRE.,

&c., &c., Madrid.

SIR:

The Consul of the United States at Trinidad de Cuba has called the attention of this Department to what he considers an exaction on the part of the Cuban authorities, consisting of an addition of 23 per cent. to the registered tonnage of American vessels visiting that port—the tonnage duty being, it is presumed, charged upon each vessel, according to this factitious and exaggerated estimate of her burthen.

¹ MSS. Department of State, Instructions, Spain, XIV. 208.

I transmit, herewith, an extract from the Consul's communication, dated on the 10th ultimo; and you are directed, on its receipt, to bring the subject to the consideration of the Spanish Government, and to protest against this practice of the Colonial authorities; a practice so obviously arbitrary and unwarranted by the order requiring them to ascertain the tonnage of vessels by admeasurement. The President hopes that there will be no hesitation on the part of Spain in arresting it, and in causing to be refunded the excess of charges with which our trade with Trinidad may have been so taxed.

Mr. Irving's despatches to No. 83 inclusive,—with the exception of Nos. 70 and 82,—have been received at this Department.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. HAMILTON.¹

DEPARTMENT OF STATE,

WASHINGTON Aug. 27, 1846.

R. M. HAMILTON ESQRE.

U. S. Consul—Montevideo.

SIR,

Commodore Danels, a Citizen of the United States, has claims upon the late Government of Colombia, for seizure by authority of that Government of certain prizes captured by him while in the service of the Oriental Republic. The Government of Venezuela hesitates to satisfy the claims, among other reasons from an apprehension that the Government of the Oriental Republic has an interest in the matter, and might hold the Venezuelan Government to an account notwithstanding any release which the latter might obtain from Commodore Danels. There is reason to believe, however, that the Oriental Republic has in fact no interest in either the claims of Commodore Danels or those of other Citizens of the United States on the late Colombian Government originating in similar circumstances, and will readily relinquish, in proper form, any interest which it may be supposed to possess. In fact the Oriental Government has already in

¹ MSS. Department of State, Despatches to Consuls, XI. 496. That Danels' claims were eventually disallowed, see Moore, International Arbitrations, II. 1398; III. 2729.

other cases executed a release of the character referred to. You will consequently make use of your good offices for the purpose of obtaining a similar release in favor of Commodore Danels, and also in favor of those Citizens of the United States who were interested in the prizes made by La Constantia and La Fortuna, privateers also sailing under the Flag of the Oriental Republic, whose prizes were seized by persons acting under the authority of the Republic of Colombia.

Mr. John P. Adams, the Consul of the United States at La Guayra, is the Agent of the parties in the cases referred to, and will himself address you upon the subject.

I am, Sir, &c.

JAMES BUCHANAN.

TO THE CHEVALIER TESTA.¹

DEPARTMENT OF STATE,
WASHINGTON, 27th Augt., 1846.

THE CHEVALIER F. TESTA,
&c., &c., &c.

SIR:

Referring to the correspondence which has heretofore passed between this Department and His Netherlands Majesty's Legation at Washington, on the subject of the duties imposed in the ports of this country on Java Coffee, I have the honor to communicate to you printed copies of the circular instructions of the Secretary of the Treasury to the Collectors of the Customs, founded on the act of Congress of the 3d instant, exempting "coffee imported from the Netherlands from duty in certain cases, and for other purposes."

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Netherlands Legation, VI. 49.

TO MR. KING.¹

DEPARTMENT OF STATE,

WASHINGTON, August 29, 1846.

HON. DANIEL P. KING,
(Danvers, Mass.)

SIR:

I have the honor to acknowledge the receipt of your letter of the 19th instant, referring to a conversation which took place some months ago between P. J. Farnham, Esq., and myself, respecting the case of the bark "Jones," and inquiring what progress has been since made in the prosecution of this claim on the British Government. Of the proceedings in this case, up to the period of Mr. Everett's departure from England on his return home, Mr. Farnham is already informed—the last step taken in regard to it having been Mr. Everett's request that the determination avowed by the British Government should be reconsidered. No reply has yet been received to this request, first made in Mr. Everett's note to Lord Aberdeen of May 18, 1843, and renewed in that of June 14, 1844. Since the conversation held by me with Mr. Farnham, Mr. McLane has experienced a long and severe illness, and his attention and time have been engrossed by a subject of paramount national importance. His return to the United States may be looked for in the course of next week, after which time the President doubtless will not long delay the appointment of a new Minister to London, who will be instructed regarding the subject, & directed to ask for a definitive answer to Mr. Everett's notes, urging this claim upon the justice of Her Britannic Majesty's Government.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 85. By the award of the umpire of the mixed commission under the convention between the United States and Great Britain of February 8, 1853, the claimants in the case of the bark *Jones* received the sum of \$100,625. (Moore, International Arbitrations, I. 416; IV. 3793 et seq.)

FROM THE MEXICAN MINISTER OF FOREIGN RELATIONS.¹

[*Translation.*]

NATIONAL PALACE, MEXICO,

August 31, 1846.

SIR: The undersigned, Minister of Foreign Relations of the Mexican republic, has submitted to his excellency the general-in-chief of the liberating army, charged *ad interim* with the supreme executive power of the nation, your excellency's note of the 27th of the past month of July, in which you propose, on the part of your government, to open negotiations which may tend to the conclusion of a peace just and honorable for both countries.

His excellency, on being made acquainted with the terms of the said note, could not but fix his attention strongly on the circumstance that, refusing discussion upon the causes of the war existing between the two republics, it is desired at present to consider those causes merely as a thing that is past and belongs to history. For the executive to accept such a proposition on that basis, when dealing with a subject which concerns the honor of the country and the integrity of its territory, and endangers its nationality for the future, would be to waive the question of its justice, and to complete the irritation of public opinion, already highly alarmed, as is proved by the discussions which have taken place on the subject, through fear that the question might receive the solution now suggested. Thus it is that the affairs of the republic, having been brought by those same causes to the situation in which they now are with regard to the United States, it has been necessary to call upon the nation, in order that, through representatives elected with the fullest liberty, her fate may be deliberated upon, and her security, her honor, and her future welfare provided for. A congress having been convoked for this object, which will commence its sessions on the 6th of December next, as that body will charge itself, among other important matters, with all that relates to the war with the United States, to it will the abovementioned note from your excellency be submitted, in order that it may determine upon what it shall judge to be proper for the interests of the nation. The government of the undersigned, in consequence, awaits the determination of that assembly, in order to give the becoming answer to the essential part of the said communication, the relations of Mexico with your republic remaining meanwhile in the same state in which his excellency the general-in-chief of the liberating army found them when he assumed the charge of the executive power of the nation.

The undersigned, in transmitting this answer of his government, despatching it to your excellency through the channel which you indicate, avails himself of this opportunity to assure you of his distinguished consideration.

MANUEL CRESCENCIO REJON.

TO HIS EXCELLENCY THE MINISTER OF FOREIGN RELATIONS OF THE UNITED STATES OF AMERICA.

¹ H. Ex. Doc. 4, 29 Cong. 2 Sess. 43.

TO THE CHEVALIER HÜLSEMANN.¹

DEPARTMENT OF STATE,
WASHINGTON, 31st August, 1846.

CHEVALIER HÜLSEMANN,

&c., &c., Austria.

SIR: I have received your note of the 24th instant, inquiring "whether the Government of the United States would be disposed to conclude with Austria an arrangement for the reciprocal extradition of criminals, similar to that which the United States have established by Treaties with England and France;" and, according to your request, have submitted this question to the President.

In answer, I now have the pleasure of stating, that the President is willing to conclude such an arrangement with the Government of Austria for the mutual surrender of criminals: and I shall be prepared, at any time, to enter upon a negotiation with you for this purpose.

You have not in your note specified the "difficulties which have presented themselves in the execution of the existing Treaty," between the two countries; but I am authorised by the President to assure you, that whenever these difficulties shall be presented in a specific form, he will take them into consideration, with every disposition "to provide a remedy for them, by some additional stipulations."

I am, Sir, with great consideration,
Your obedient servant,

JAMES BUCHANAN.

TO MR. BIDLACK.²

(No. 13.)

DEPARTMENT OF STATE,
WASHINGTON, 16th September, 1846.

To B. A. BIDLACK, ESQUIRE,
&c. &c. &c.

SIR:

I have to acknowledge the receipt of your despatches to No. 20, inclusive. Agreeably to your suggestion a copy of the Convention in the case of the Josephine was communicated to the

¹ MSS. Department of State, Notes to German States, VI. 143.

² MSS. Department of State, Instructions, Colombia, XV. 105.

party interested, who was at the same time apprized of the high price of gold at Bogotá and requested to endeavor to devise means to prevent the loss which it would occasion. An open letter to you upon the subject from Mr. Toby is accordingly herewith transmitted.

With a view to avoid the difficulty adverted to, in the adjustment of any other case, it might be preferable to stipulate for the payment of the instalments in dollars at some port on the coast.

The President is anxious that all the just and now long deferred claims should be speedily settled and that the sufferers should be substantially indemnified. Payments at Bogotá in a depreciated currency of rials, and those payments subject to the risks and charges incident to a remittance to the coast, ought not to be considered satisfactory. This is especially true under existing circumstances, when, as you state, the very Congress which has made the appropriations in the cases of the Yankee and the Josephine, has passed an act which will occasion a still further depreciation of the medium of payment.

The Department cannot give you specific instructions as to the mode of making remittances. Such instructions would imply a knowledge of the state of the currency, of the exchanges, and of the means of transportation at the moment when each remittance was to be made. To this the Department does not pretend. Being on the spot, you are best capable of judging of the interests of the claimants, and entire confidence is reposed in your discretion and zeal in guarding their interests and carrying out their wishes. Upon one point it is necessary that you should be very guarded: not to accept in satisfaction of any payment (unless in pursuance of the clearly expressed wishes of the claimants) a less amount than the one stipulated to be paid. To offer to make a payment in a currency which has depreciated since the engagement to make the payment was contracted, is in fact to offer to pay less than the engagement requires. Every such offer will therefore be declined by you, unless you shall have previously received other directions from the persons interested. Where the course of events is such as to create a probability of such offers being made, it would be well for you to advise the parties in the United States of what might be expected, and to ask for provisional directions from them.

The bill for \$3000 drawn by you (on account of your outfit) in favor of Mr. H. H. Williams, the claimant in the case of the

"Morris," and enclosed in your No. 19 (with a view, it is presumed, to its being transmitted to the drawee) will be retained by the Department and returned to you: it being deemed necessary that the accounts of diplomatic agents with our government should not in any way become mixed up with those relating to claims upon foreign governments which those agents may be instrumental in collecting and paying over to the persons entitled.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. CRUMP.¹

(No. 10.)

DEPARTMENT OF STATE,

WASHINGTON, 23d September, 1846.

To WILLIAM CRUMP, ESQUIRE, &c. &c. &c.

SIR:

I transmit a copy of a letter addressed to this Department by Walter R. Jones, Jacob Harvey and Thomas W. Williams, 2nd, the first President of the Atlantic, the second Acting President of the Alliance Mutual Insurance Company of New York, and the third part owner of the schooner Leader of New London, which is the subject of the communication. It is represented that this vessel had been successfully engaged in a sealing voyage on the west coast of Patagonia, when it became necessary for her to repair to the port of St. Carlos in the Island of Chiloe, for the purpose of recovering some of her crew who had deserted, or of shipping others. In proceeding thither, she passed through the channel between that Island and the main land. One of the deserters was recovered, the places of the others supplied, and a passenger for the United States taken on board. The vessel then endeavored to proceed again to her cruising ground by the open sea, but was forced by a strong tide and head wind to put back into the channel adverted to, when she was seized by the Captain of the Port of St. Carlos, taken thither, dismantled, and her crew discharged. It appears that the case has already been brought to your notice, but the Department is not apprized as to the course which you may have adopted. The vessel is said

¹ MSS. Department of State, Instructions, Chile, XV. 63. William Crump, of Virginia, was commissioned chargé d'affaires to Chile, April 10, 1844. He announced his departure from Chile, Nov. 1, 1847.

to have been charged with a breach of the law of Chile in passing through the channel above mentioned. If the charge shall have been judicially prosecuted, and if in meeting it the defendants shall have been allowed all the privileges to which they were entitled under the Treaty between the two countries and the law of nations, your official interference may not have been necessary. If, however, they should have experienced any unlawful impediment in their defence, or the decision against them (if so rendered) should have been plainly and notoriously unjust, you will inform the Executive of Chile that the United States will hold that government accountable for the value of the vessel and her cargo and for such damages as may have resulted from the seizure and detention. For the purpose of forming an opinion upon the subject, it will be useful to the Department to have a copy of the law of Chile which is alleged to have been violated, to be informed of the motives for its enactment, the width of the channel between Chiloe and the continent, and in particular whether it is in any part less than two marine leagues. If you can obtain this information, you will transmit the same at your earliest convenience.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. JOHNSON.¹

DEPARTMENT OF STATE,
WASHINGTON, September 23, 1846.

HON. CAVE JOHNSON
(Post Master General)

SIR:

In compliance with the request of Col. Beaulieu, Minister Resident of Belgium at this place, who states that he has had a conversation with you upon the subject, I have the honor to transmit herewith copies of certain papers, numbered from 1 to 9—inclusive, (a list of which is annexed,) relating to the desire entertained by the Belgium Government to enter into a postal arrangement with that of the United States.

I am &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 101.

TO THE MEXICAN MINISTER OF FOREIGN
RELATIONS.¹DEPARTMENT OF STATE,
WASHINGTON, 26th September, 1846.

The Undersigned, Secretary of State of the United States, has had the honor to receive the communication of His Excellency the Minister of Foreign Affairs of the Mexican Republic, dated on the 31st of August, in answer to the proposition made by the Undersigned to the Mexican Government in his note of the 27th July, last, that "negotiations shall forthwith commence for the conclusion of a peace just and honorable for both parties."

This note declared, in express terms, that it was the desire of the President "to conclude a Treaty of Peace which shall adjust *all the questions in dispute between the two Republics.*" These questions had all existed before Mexico commenced hostilities, and to adjust these questions was the avowed object of the proposed negotiation. It is then with no little astonishment that the President has perceived from the communication of His Excellency, that the Mexican Government has so far misapprehended the meaning of the Undersigned as to suppose that this Government either desired or intended to withdraw from the negotiations for peace the causes, on either side, which led to the existing war, and to consider them merely "as a thing that is past and belongs to history." Very far from it. This would have been to abandon the just and acknowledged claims of our injured citizens for violations of their personal liberty and seizures of their property continued through many successive years, and which, in the opinion of President Jackson, so long ago as February, 1837, would have justified, "in the eyes of all nations, immediate war."

This misapprehension, on the part of the Mexican Government, appears the more remarkable as it is an inference drawn by them from that part of the note of the Undersigned most conciliatory in its character. In this note, which was intended as a mere preliminary to the opening of negotiations, it was desirable to avoid all irritating topics. For this reason the language employed was:—"In the present communication, it is deemed useless and it might prove injurious to discuss the causes of the existing war. This might tend to delay or defeat the

¹ H. Ex. Doc. 4, 29 Cong. 2 Sess. 44; MS. Communications to Foreign Sovereigns and States, III. 12.

restoration of peace. The past is already consigned to history; the future, under Providence, is within our own power." And yet it is from this last sentence, disconnected from all which precedes it, that the Mexican Government have inferred a disposition on the part of the Government of the United States to avoid, in the progress of the negotiation, the discussion of the questions out of which the war originated. It is most certain that no such disposition exists; and the Undersigned feels assured that he need add nothing more to convince the Mexican Government that in this particular they have placed an erroneous construction upon his language.

Conscious that in making the overture for peace he has performed his duty, the President will now await with patience and with hope the final decision of the Mexican Government.

In making this overture thus early, he was in no small degree influenced by the consideration that the longer the war shall last, the greater will be the difficulty of concluding a satisfactory peace, on account of the heavy increased expenditure which its continuance will render indispensable. He will however hold himself always ready to terminate it upon principles of impartial justice. Having, in the first instance, used all proper efforts to avoid hostilities, and having now proposed to open negotiations for the conclusion of a just and honorable peace, nothing is left for him but to acquiesce in the decision communicated by Your Excellency that, until changed by the act of the Mexican Congress, the relations between the two countries will remain "in the same state in which they were found by His Excellency the Commander in Chief of the liberating army when he took charge of the Executive power of the nation." In the attitude thus assumed by Mexico, the United States can appeal to the whole world that no alternative remains for them but to prosecute the war with vigor until the disposition which they have so signally manifested to bring it to a speedy termination shall be met by a corresponding sentiment on the part of Mexico, and the negotiation which they have invited shall be brought to a happy conclusion.

The Undersigned avails himself of the present occasion to offer to His Excellency, the Minister of Foreign Affairs of the Mexican Republic, the assurance of his most distinguished consideration.

JAMES BUCHANAN.

To HIS EXCELLENCY, THE MINISTER OF FOREIGN RELATIONS
OF THE MEXICAN REPUBLIC.

TO MR. WICKLIFFE.¹

(No. 16.)

DEPARTMENT OF STATE,
WASHINGTON, 29th September, 1846.ROBERT WICKLIFFE, JR., ESQRE.,
&c., &c., Turin.

SIR:

My attention has been recently drawn to an alleged contract made by Mr. J. G. Harris, late Tobacco Agent, and Mr. C. Edwards Lester, United States Consul for Genoa, with the Sardinian Government; in pursuance of which, as is stated, the former undertook to supply the latter with a certain quantity of tobacco.

On referring to your despatch No. 15, of the 25th of January, of last year, it would appear that the Consul, conjointly with Mr. Harris, entered into such an agreement; and that the latter having failed, upon his return to the United States, to perform his duty, the former became thereby responsible to the Sardinian Government, and had been compelled to repair to this Country, for the purpose of fulfilling the joint obligation, by furnishing the tobacco: in furtherance of which object, the Sardinian Government had, at Mr. Lester's instance, granted him an extension of the time originally agreed upon by the parties.

As this charge appears to involve a serious breach of faith on the part of one officer of this Government, and as it would further seem, from your despatch No. 16, that there had been an unreasonable delay on the part of another to discharge his obligations in the case,—I have to request, that, in order to enable the Department to investigate the subject, you will, as early as possible, obtain from the Sardinian Government a copy of the alleged contract, and of all other Documents connected with it, and transmit them hither,—together with any other information on the subject, calculated to throw light upon the transaction, both as regards the nature of the relations entered into by Mr. Lester and Mr. Harris towards the Sardinian Government, and the conduct observed by them respectively, and also as regards the precise character of the relation contracted by them towards each other: whether they were jointly concerned, or whether the one was merely the security of the other, without having any interest in the matter.

¹ MSS. Department of State, Instructions, Italy, I. 35.

I transmit, herewith, a letter of ceremony from the President to the King of Sardinia, in answer to one from His Majesty announcing the birth of a Prince; which you will communicate, as usual, in such manner as may be made known to you, by the Minister of Foreign Affairs, to be most agreeable to His Majesty's wishes.

Your despatches to No. 43, inclusive, have been received. The documents which accompanied No. 43, relating to the military and maritime navy of Sardinia, with a copy of the despatch, were, as requested by you, communicated in the name of the Sardinian Government to the Secretary of the Navy;—and I now transmit a copy of his reply, acknowledging their receipt, and sending a printed copy of the Navy Register of the United States for the present year, corrected to the present time, and of a Report made by the Navy Department, in compliance with a resolution of the Senate of 3d February last. These documents you will be pleased to dispose of in conformity with the letter of the Secretary of the Navy.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO COMMODORE CONNER.¹

DEPARTMENT OF STATE,

WASHINGTON, October 1, 1846.

COMMODORE DAVID CONNER,

(Commanding the Naval force of the United States in
the Gulf of Mexico.)

SIR:

I have to request that whenever you shall receive from the Mexican Government information that they are disposed to open negotiations with the United States, you will immediately communicate this fact to the Hon. John Slidell at New Orleans. This intelligence would necessarily afford him such leisure for preparation as would no doubt be desirable before he could receive his instructions from this Department.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 102.

TO MR. TATE.¹

DEPARTMENT OF STATE,

WASHINGTON, October 3d, 1846.

WILLIAM TATE, ESQR. (Agent)

and others, owners of the Barque "*Fame*."

(New London, Ct.)

GENTLEMEN:

Your letter of the 30th ultimo has been received, in which as owners of the barque "*Fame*," of New London, Connecticut, Joseph B. Mitchell, master, you request, for the reasons assigned, that should your said vessel, while under the command of the said Mitchell, touch at any of the ports on the Pacific where we have consuls, those consuls be instructed "to take her from him—place a capable man in charge of her—and send her home."

I have to inform you, in reply, that this Department possesses no authority by which those officers could be empowered to pursue the summary course indicated by you, and divest the master of the possession of the barque. By your act he was placed in lawful possession of her; and although you have the right to remove him, and to resume possession of your property, this cannot be done (should he refuse voluntarily to surrender it) otherwise than by due process of law in the country where the vessel may be.

Whoever undertakes to do it must, therefore, be duly authorised as your attorney to adopt whatever measures the nature of the case may require for placing him in possession of your property. The object which you have in view would require, therefore, that either an Agent be sent out by you, provided with all proper papers, or that, by means of a power of attorney from you, some person already there be clothed with power to act in your behalf. In either case, the power should be authenticated under the Great Seal of your state, in order that it may receive the authentication of this Department first, and then of the various South American legations at this place.

Should you think proper to adopt either course, this Department will, upon being informed of the arrangement made by you, and of the name of the agent selected, transmit instructions to our consuls on the coast of the Pacific, to afford him all the

¹ MSS. Department of State, 36 Domestic Letters, 104.

aid in their power towards accomplishing the object, which may be consistent with their public station and the laws of the country in which they reside.

I am, &c.

JAMES BUCHANAN.

TO MR. BANCROFT.¹

WASHINGTON, October 6, 1846.

MY DEAR SIR:—

I cannot suffer you to depart from the country without saying from the heart, God bless you! May your mission be prosperous, and Mrs. Bancroft and yourself happy! I sorely regret that we have lost your services in the Navy Department, and still more that we have lost your society; and this I do, without any disparagement to your successor, whom I highly esteem. My feelings, both in regard to Mrs. Bancroft and yourself, are warmly entertained by Mrs. Polk, with whom I have recently held a conversation on the subject.

The two most important objects of your mission will be to have the duties on tobacco diminished, and to obtain a relaxation of the present arrangement regulating our trade with the British West Indies and American provinces. Free trade is now the order of the day and I am not without hope that these objects may be accomplished. I have omitted to instruct you on the former subject on your own suggestion. I desire that you should enjoy all the credit of the movement. I think a despatch embracing all the statistical and other information on the subject, with your own views, might do both the country and yourself much good.² In regard to the latter subject, I have not had sufficient time to give it a thorough investigation.

There is still much sickness in Washington, though not of a dangerous character. The centre of the city, F Street and the avenue, is comparatively healthy. Both Marcy and Mason have

¹ Curtis's Buchanan, I. 574. Mr. Bancroft's reply is printed in Curtis's Buchanan, I. 575. Mr. Bancroft was minister to England from Sept. 9, 1846, to August 31, 1849.

² Curtis, in his Buchanan, in a note at this point, says: "Mr. Bancroft informs me that he subsequently advised Mr. Buchanan not to open a negotiation for a reduction of the British taxes on tobacco, knowing that it would be a useless effort to endeavor to persuade England to change that part of her financial system."

had intermittents,—they were, however, at the cabinet to-day. Miss Annie¹ appears to be entirely well, and is again as gay as a lark. Miss Clem² is still very weak, and has not yet left her chamber, unless she has done so to-day.

With my kindest regards for Mrs. Bancroft, I remain, as ever, sincerely and respectfully,

Your friend,

JAMES BUCHANAN.

TO MR. LEARY.³

DEPARTMENT OF STATE,

WASHINGTON Oct. 7, 1846.

C. L. LEARY ESQRE.

Baltimore.

SIR,

Your letter of the 3d inst: referring to a public notice from this Department relative to the Barque "Lucy Penniman" of New York, & requesting to be furnished with information respecting her Captain, M. H. Cooper, has been received.

In reply, I have to state that, from a letter of Isaac Chase, Esqre., U. S. Consul at Cape Town, and sundry depositions and other papers accompanying it, it appears that Capt. Cooper was left at Angozha River on the 23rd day of May 1846, and that this event resulted from the following train of occurrences.

The "Lucy Penniman" sailed from New York for Rio de Janeiro on the 24th August 1845, with a Crew shipped for "a voyage from New York to Georgetown in the District of Columbia & from thence to Rio de Janeiro, and Port or Ports in the Brazil, for the space of ten Calendar months, or to be discharged sooner in the U. States, should the voyage be finished sooner." Deviating from this voyage, Capt. Cooper sailed from Rio on the 21st day of December 1845, with a Cargo of 100 pipes filled with Salt water—a large quantity of empty Casks—a large quantity of plank & beams for decks, bars of iron, lead, Jerked beef, about 300 Bundles—upwards of 12 Barrels of

¹ Curtis says: "The niece of Mrs. Madison."

² Curtis says: "Miss Clementina Pleasonton."

³ MSS. Department of State, Despatches to Consuls, XII. 249. A similar letter, except the first paragraph, was sent to A. B. Neilson, Esq., president of the Sun Mutual Insurance Company, New York, Oct. 7, 1846. (Id. 252.)

Slave irons reported at the time they were embarked to be Aguardiente—4 Sets of Slave Coppers, cased, an immense quantity of Farinha & Beans—4 Kegs of Money in Gold and Silver—about 60 Casks of Aguardiente, many boxes of Fire Arms & 500 Kegs of Powder & Ball; giving the Crew to understand that they were going to the West coast of Africa. He, however, went round the Cape of Good Hope and entered Angozha River. He lay there, and supplied with the necessaries for the voyage to America three Slave vessels, two of which sailed with Cargoes of Slaves. Whilst this business was going on, the Brig "Kentucky," one of the vessels above, which after being supplied had taken on board Five hundred Slaves, was about to sail, when the river was visited by the Boats of the British Frigate "Cleopatra." Upon their approach the slaves were landed, and the vessel set on fire, to prevent her from falling into their hands.

On this occasion the "Lucy Penniman" was visited by the Boats, and her papers exhibited to the officer in command. Whilst he was on board, the Steward & Crew, (some of whom claimed his protection as British subjects) came forward and informed him of the circumstances of the case; how they had been brought there without their consent or knowledge, the business in which they were engaged, the danger in which they were of their lives, particularly since the burning of the Slaver; the Crew of which they believed would take the "Lucy Penniman" to supply the place of their own Vessel. For this reason they were unwilling to continue in their present situation, and begged assistance to extricate themselves from it.

In this state of the case, Capt. Cooper proposed to be taken on shore, that he might see the Portuguese supercargo whom he had brought out from Rio, and who had lived on shore since their arrival in the river. This was consented to by the officer (Lieut. Gibson) and at 7 o'clock on the morning of the 19th May, Capt. Cooper left the Barque in one of the Man of War's Boats, escorted by three more of them. At 10 o'clock they returned, and Lieut. Gibson informed the Mate, that the instant they landed Capt. Cooper, the Portuguese & natives on shore commenced firing on them & continued to do so for two and a half hours, whilst they lay there waiting for the Captain, who did not however make his appearance. The boats got back with four of their men wounded by this firing.

Upon their return, the Barque was got under weigh, and taken down the river near to the bar where she was anchored.

The Lieut. then sent her papers on board the frigate; and next morning, the 20th May, they weighed anchor again, & proceeded over the Bar, to where the "Cleopatra" lay, & anchored near her. Whereupon the Mate, at the invitation of Lieut. Gibson, accompanied him on board of the Frigate, where the Barque's papers were examined by Capt. Wyvil of the "Cleopatra," who, on returning them, desired that he would find Capt. Cooper.

At 6 o'clock on the morning of the 21st May, the Frigate's Boat came alongside the barque; & the Mate went in her, in search of the Captain. He returned after an absence of several hours without finding him. On the morning of the next day, at a still earlier hour, the Frigate's boat again came, and went ashore, taking one of the Crew of the "Lucy Penniman," sent by the Mate to find Captain Cooper. He succeeded in doing so, and on the return of the Boat from shore at 7 in the evening, the man came back to the Barque, whilst the Captain went on board the Frigate.

Next morning, the Mate was informed by the Officers of the Frigate that Capt. Cooper would not come on board the Barque, but returned to the shore. Under these circumstances the Mate, Steward, & three Seamen of the Barque, being apprehensive, as has been above stated, that, when no longer protected by the presence of the Frigate, she would be captured by the Crew of the Portuguese Slaver which had been burnt, for the purpose of taking in their Slaves, determined (at the advice of Capt. Wyvil) to take the "Lucy Penniman" beyond reach of danger, to St. Simon's Bay. They were furnished with an Officer & two Seamen from the Frigate, to assist in navigating her into port; and she arrived there on the 6th July 1846. She is now in the Custody and safe keeping of Mr. Chase, the Consul.

Such are the circumstances under which Capt. Cooper appears to have been left. From a remark made by him to the Steward (so far as the Deposition of the latter is to be relied on) it would seem that he was apprehensive of the consequences to himself, should he continue in the Barque, after the determination of the Crew to take her elsewhere, and that this probably was the motive which governed him in remaining at Angozha.

I am Sir &c.

JAMES BUCHANAN.

TO MR. MARTIN.¹

DEPARTMENT OF STATE,

WASHINGTON, 8th Octr., 1846.

J. L. MARTIN, ESQRE.,
&c., &c., &c.

I herewith transmit you a copy of a note from Mr. Guizot to Mr. Pageot, which the latter has communicated to this Department. The difficulties to which it refers, as you will perceive from copies of the despatches of Mr. M'Cauley to this Department, herewith communicated, have arisen out of a contest for precedence between him and the French Consul General.

Mr. M'Cauley was commissioned as Consul to Tripoli on the 29th of July, 1831; and, on the 21st of August of the same year, was furnished with letters of credence to the Bashaw, which conferred upon him a diplomatic character. You are doubtless aware that, according to custom, the Consuls maintained by Christian Powers near the Barbary States are accredited and treated as public Ministers.

Mr. M'Cauley had always enjoyed the privileges belonging to his diplomatic character, until these were contested by the Consul General of France: and the question to be determined is whether the recent change in the Government of Tripoli has deprived him of these privileges. If the change in this Government has been of such a radical character as to leave the Bashaw no sovereign powers in his intercourse with foreign nations; if, in short, Tripoli has become a mere province of the Turkish Empire; then, unquestionably, Mr. M'Cauley's diplomatic functions have ceased to exist, and he can claim no precedence in virtue of the character which they impart.

Neither Mr. Pageot nor myself is sufficiently apprized of the nature of the change in the Government of Tripoli to decide this question of fact. For this reason we have agreed to refer it to Mr. Guizot and yourself.

¹ MSS. Department of State, Instructions, France, XV. 42. J. L. Martin, of North Carolina, was appointed chief clerk of the Department of State, July 15, 1840, and held the position till March 6, 1841, when he was succeeded by Daniel Fletcher Webster. He was commissioned secretary of legation at Paris, April 15, 1844, and acted as chargé d'affaires ad interim from July 4 to Oct. 14, 1845, and from Sept. 15, 1846, to July 24, 1847. He was commissioned chargé d'affaires to the States of the Church, April 7, 1848, being the first person to be accredited by the United States to that power. He died at his post, Aug. 26, 1848.

Should you clearly ascertain that the Bashaw of Tripoli has no longer the power to receive a diplomatic agent, you will then inform Mr. M'Cauley of this fact, and that he shall consider his diplomatic functions to have ceased. His precedence, in this character, will of course share the same fate.

Mr. M'Cauley has raised another question which I do not deem it necessary to decide: That is, even supposing his diplomatic powers to have ceased, can the French Consul General take advantage of this to deprive him of his former rank at Tripoli, until these shall have been expressly revoked by his own Government? If you should ascertain that the Bashaw's authority to treat diplomatically with foreign Ministers no longer exists, then the President would not consider it necessary to make this a serious question. In that event, you will instruct Mr. M'Cauley that his diplomatic character has terminated. The President cannot desire, by his omission to give this instruction, to continue Mr. M'Cauley in a character to which he is not entitled. This will at once relieve him of all difficulty on the subject.

Mr. M'Cauley would, in that event, be reduced to the rank of a Consul, and would of course have to yield the precedence to a Consul General. We have often experienced inconvenience, as you know, from the omission of Congress to create the office of Consul General; but, until this shall be done, we cannot claim the powers and privileges which pertain to such an officer for our Consuls. At the present moment our Consul at Alexandria is not admitted to any personal conference with the Viceroy of Egypt, because he is not a Consul General.

Mr. M'Cauley gives an excellent reason why he abstained from saluting the flag on the anniversaries of the Kings of France, Spain, the Two Sicilies, and Sardinia. If the Consuls of these Powers refused to display their flags at half mast on the day he had set apart for doing honor to the memory of General Jackson, then Mr. M'Cauley deserves praise, instead of censure, for his conduct. He acted in a spirit becoming an American citizen. It would be unfortunate, however, if this suspension of an interchange of civilities required by national courtesy among the officers of friendly Governments should prove permanent. Still, I think before these ought to be restored on the part of Mr. M'Cauley, a suitable acknowledgment should be made for so striking an act of indignity to the country as the refusal

to accord the accustomed honors to the memory of its late illustrious President.

In any aspect of the case, Mr. M'Cauley erred in refusing all official intercourse with the French Consul General. A claim of precedence ought never to interfere with the transaction of business, unless when this necessarily involves the question in dispute.

Upon the whole, Mr. M'Cauley's conduct has evidently been actuated by a laudable zeal to preserve the honor of his country and maintain its rights. It is, therefore, far from my purpose to cast any censure upon him. The case is referred to you because, in Paris, you possess greater facilities than the Department to acquire the information necessary to decide the question of fact at the foundation of the controversy, and, being nearer the scene of action, you can bring it to a more speedy conclusion. I trust that Mr. Guizot and yourself may be able to adjust the matter in such a manner as to restore amicable relations between the public agents of all the Powers at Tripoli.

Since I wrote the foregoing, another despatch of Mr. M'Cauley, dated 18th July, 1846, has been for the first time brought to my notice. Of this I also send you an extract, but do not deem it necessary, from any thing which it contains, to add to these instructions; it being evident that all the difficulties between him and the French Consul General have arisen out of the original question of precedence.

I shall transmit a copy of this despatch to Mr. M'Cauley for his information.

You will report your proceedings to this Department.
I, am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

P. S.—You ought, in conversing with Mr. Guizot, to bring under his special notice the omission, on the part of the French Consul General, to notify Mr. M'Cauley of the funeral honors intended to be paid to the late Pope.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,
WASHINGTON, 8th Octr., 1846.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

Your note of the 7th August last was, immediately after its receipt, referred for information to the Navy Department. I now transmit you a copy of the report of Commodore Skinner, the commander of the American squadron on the coast of Africa, relative to the refusal of Captain Bell, of the United States ship Yorktown, in November last, to salute the French fort Aumale, situated on the river Gabon. From this you will perceive that his refusal to salute that fort before leaving the river proceeded from a personal misunderstanding between him and its commanding officer, and not from any decision on his part that it did not rightfully belong to France. As a naval officer he had no right to decide such a question. It was his duty, under the established courtesy of nations, to salute the French flag wherever he might find it flying on any fort, without further enquiry. The Secretary of the Navy will take care that hereafter there shall be no such omissions.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.²

DEPARTMENT OF STATE,
WASHINGTON, 9th October, 1846.

DON A. CALDERON DE LA BARCA,
&c., &c., &c.—New-York.

The Undersigned has received the note of His Excellency Mr. Calderon of the 5th instant; and, according to his request, proceeds, without delay, to give it an answer.

The Undersigned states emphatically, that the Government of the United States will carry fairly into execution the fifteenth and sixteenth Articles of the Treaty of 1795 with Spain. He

¹ MSS. Department of State, Notes to French Legation, VI. 98.

² MSS. Department of State, Notes to Spanish Legation, VI. 141.

is only surprised that the Government of Spain should have intimated any doubts upon this subject. The United States have never, under any circumstances, violated the faith of Treaties; and least of all would they feel inclined to do so towards Spain, after she has used such laudable efforts to execute, in good faith, the 14th Article of the same Treaty.

The Undersigned will immediately cause to be transmitted to Commodore Conner, the Commander of the Naval Forces of the United States in the Gulf of Mexico, a copy of the complaints which Mr. Calderon has submitted against his conduct. After his answer shall have been received, the Undersigned will again have the honor of addressing Mr. Calderon on the subject.

The Undersigned avails himself of this occasion to renew to His Excellency Mr. Calderon de la Barca, the assurances of his distinguished consideration.

JAMES BUCHANAN.

TO MR. KEY.¹

DEPARTMENT OF STATE,
WASHINGTON, October 9, 1846.

PHILIP B. KEY, ESQR.

(District Attorney, U. S.)

SIR:

Your letter of the 6th instant, in reply to the communication addressed to you by this Department on the 2nd, has been received.

Upon one of the points presented therein, it is to be observed, that, from the tenor of the crew list bond, as prescribed by the act of February, 1803, the burthen of proof is thrown upon the master of the vessel in regard to every one of his crew whom he shall fail to produce in the manner required by the condition to the bond. The *Proviso* contained in the same section of the act constitutes another conclusive proof as to the intention of the law being that the bond shall, *ipso facto*, "be forfeited on account of the said master not producing to the first boarding officer, as aforesaid, any of the persons contained in the said list," *unless* he shall, by means of "satisfactory proof," establish in regard to such persons some one of the facts

¹ MSS. Department of State, 36 Domestic Letters, 108.

specified in the *proviso*, to wit: that they had died, or absconded, or been forcibly impressed. All that the Government has to do, therefore, is to prove that one of the crew was missing at the time when it was the duty of the master to produce them to the Boarding Officer, or that the latter went on board without the man's being produced to him. Indeed, in strictness, all that would be incumbent on the Government is, to prove that its boarding officer went on board. This fact once established, it devolves upon the captain to show that he thereupon did what the law requires of him.

In a case like the present, it would be incumbent upon the master to prove the "absconding" of the sailor. The only witnesses whom the master, after his return to the United States, could be expected to have for this purpose are the officers and crew of the vessel—persons to whom all the facts and circumstances of the case would naturally be known. Consequently, if he attempted to prove in court what he is by the terms of the law bound to prove, he would, in the very act of so doing, furnish witnesses to the Government.

With respect to the cancellation of the bond by the collector, I concur in the opinion expressed by you, that this act of the collector's cannot affect the validity of the instrument, there being no law, so far as I know, vesting in that officer any authority to decide when the bond shall cease to have force.¹

I am, &c.

JAMES BUCHANAN.

¹ By section 1 of the act of Congress of February 28, 1803, 2 Stat. 203, the master of any vessel bound on a foreign voyage was required, before clearance, to deposit with the collector of customs a full descriptive sworn list of the ship's company, of which list the collector was to furnish him with a certified copy; and the master was required to give a bond to exhibit this copy to the first boarding officer on his return to the United States, and to produce the persons named therein. The section, however, contained the proviso that the bond should not be forfeited because the master failed to produce persons discharged with the written consent of a consular officer, or persons who had died or absconded or been forcibly impressed into another service.

TO MR. McCUALEY.¹

No. 14.

DEPARTMENT OF STATE,

WASHINGTON, 12th October, 1846.

D. SMITH McCUALEY, ESQRE.,
United States Consul, Tripoli.

SIR:—

Your despatches to No. 73, inclusive, have been received at this Department.

The difficulties which have grown up between yourself and the French Consul General have been under my consideration, as they were presented by your correspondence, and by the extract from a despatch of Mr. Guizot to Mr. Pageot, which was communicated by the latter to this Department on the 7th of August.

After reflection, I have deemed it proper to refer the matter to Mr. Martin, Diplomatic Representative of the United States at Paris, as you will perceive from my despatch to him of the 8th instant, of which I transmit you a copy.—I transmit, at the same time, a copy of the extract from Mr. Guizot's despatch.—This reference has been made under a belief that, at Paris, Mr. Martin will possess greater facilities than are enjoyed here for ascertaining whether the recent change in the Government of the Regency has been of such a character as entirely to deprive the Bey of Sovereign powers in his intercourse with foreign Nations.—It is upon the decision of this question of fact that your right to exercise Diplomatic functions, and, consequently, your claim to precedence, will depend.

I trust that in concert with Mr. Guizot, Mr. Martin may be able to adjust satisfactorily these difficulties, and to restore, with as little delay as possible, those amicable relations between the Representatives of different Governments in Tripoli which are so desirable, and the interruption of which is so much to be regretted.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Barbary States, XIV. 56. A copy of this note was communicated to the Secretary of the Navy. (Mr. Buchanan to Mr. Mason, October 12, 1846, 36 Domestic Letters, 110.)

TO MR. SNOOK.¹

DEPARTMENT OF STATE,

WASHINGTON, October 12, 1846.

JOHN S. SNOOK, ESQR.

(Charloe, Ohio.)

I have received your letter of the 1st instant referring to "the recent treaty between the U. S. Government and Great Britain settling the rights of those nations in the territory of Oregon," as containing a stipulation "guaranteeing to the Puget's Sound Agricultural Company all the lands granted to that company in that territory by the British Government before the making of that Treaty." This supposed stipulation is then made by you the ground of a request to be informed "what extent or amount of land is covered by the said grant or grants."

From the enclosed printed copy of the Treaty referred to, you will perceive that your recollection of its terms was inaccurate, so far as regarded the supposed grant or the amount of lands covered by the "grant or grants." Had any such been referred to, the inference drawn by you would have been perfectly just, that a statement of these grants, both as to their nature and as to their extent, would naturally have been made by the British Government, and have accompanied the Treaty when submitted by the President to the Senate for their previous advice, before he would act upon it in any way. But, as you will see, the Treaty does not contain any reference to grants of any kind.

I am &c. JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.²

DEPARTMENT OF STATE,

WASHINGTON, 13th October, 1846.

DON A. CALDERON DE LA BARCA,

&c., &c., &c.

SIR:

It has become desirable that this Department should be in possession of official proof respecting the National character of certain persons who, on the one hand, claim to be citizens of the

¹ MSS. Department of State, 36 Domestic Letters, 110.² MSS. Department of State, Notes to Spanish Legation, VI. 142.

United States, whilst on the other it is alleged that, some time between the years 1825 and 1835, they removed to the Island of Puerto Rico, where they settled and became naturalized as Spanish subjects.

Under these circumstances, relying both upon your friendly disposition to oblige me, and also upon that which, I feel very sure, is constantly and faithfully entertained by you, to contribute by all means in your power to the maintenance of correct principles, and to protect the interests of the great society of Nations from a practice so dishonest and so dangerous to their peace as that of professing a double allegiance, I experience no hesitation in asking your kind offices in obtaining the desired information. May I then request of you to procure for me, with the least delay possible, from the Governor of Puerto Rico, an authentic list of all the persons from the United States who may be registered in the archives of the Secretary's office at San Juan, or elsewhere in that island, as having become naturalized Spanish subjects, from the year 1825 to the year 1835—both inclusive? I should wish also to obtain through you a copy of the following documents: 1st, the Royal Cedula, or other laws, under which those naturalizations took place; 2nd, the Regulation which may have been adopted for the purpose of carrying the Sovereign mandate into effect; and 3rd, the Declaration which the individual was required to make upon becoming naturalized.

I am, Sir, with the most respectful and friendly consideration,

Your obedient servant,

JAMES BUCHANAN.

TO MRS. KEEFE.¹

DEPARTMENT OF STATE,

WASHINGTON, October 14, 1846.

MRS. JANE M. VIAR KEEFE,

(Care of James Keefe, Esq., Philadelphia.)

MADAM:

In answer to the inquiries contained in your letter of the 6th instant, I transmit, for your information, an extract from a despatch of Mr. Romulus M. Saunders, the Minister of the

¹ MSS. Department of State, 36 Domestic Letters, 112.

United States at Madrid, dated on the 20th August, from which it appears that nothing has yet been done in the matter of your claim. The Minister states, although he could not hold out much prospect of success, that it was his purpose to make a renewed effort in your favor, and to press the consideration of the subject upon the Spanish Government.

I beg leave again to suggest, that your correspondence on this subject be held directly with Madrid. Your claim on the Spanish Government is for the official compensation due, as you allege, to your late father, a Spanish subject, holding a public employment in the service of Spain. With a claim of this nature, as was stated to you on a former occasion, it is impossible that this Department should directly interfere. By recommending it to the good offices of our Minister at Madrid, and desiring him, unofficially, to invite attention to it, and bespeak for it the favorable consideration of the functionaries to whom its consideration exclusively belongs, this Department has done all that it possibly can do.

I am, &c.

JAMES BUCHANAN.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, Octr. 15th, 1846.

RIGHT HONBLE. RICHARD PAKENHAM,

&c., &c., &c.

SIR:

I have the honor to acknowledge receipt of your note of the 16th ultimo, acquainting me that "it has come to the knowledge of Her Majesty's Government that a seaman named Matthew Nelson, a deserter from Her Majesty's ship 'Illustrious,' is now serving on board the United States corvette 'St. Mary's,' in the gulph of Mexico;" and that you are "instructed to apply to the United States Government to give directions that this man may be given up to the first British ship of war that may be met with by the commander of the United States ship in which he may be serving."

Your communication has been submitted to the President, and I am instructed to express his regret that he cannot comply

¹ MSS. Department of State, Notes to Great Britain, VII. 147.

with your request. The case of deserters from the vessels of war of the respective nations is not embraced by the tenth article of the treaty of Washington providing for extradition in certain cases: and without a treaty stipulation to this effect, the President does not possess the power to deliver up such deserters. The United States have treaties with several nations which confer upon him this power; but none such exists with Great Britain.

The President has instructed me to say further, that Matthew Nelson, when identified as the person who has deserted from Her Majesty's ship "Illustrious," shall be dismissed from the service of the United States, should you thus request. In that event, however, he would be left at liberty, either to return to the British navy or to go wherever else he pleased.

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,
WASHINGTON, October 15, 1846.

BENJAMIN F. BUTLER, ESQR.

(U. S. District Attorney, New York)

SIR:

Mr. Pageot, the French Minister, informed me yesterday, that in the case of the extradition of one Metzger, now pending before Justice Drinker of New York, Mr. Hoffman, in behalf of the accused, has raised the point, that our Convention with France, of November, 1843, does not embrace crimes committed during the period intervening between its date and its ratification. In other words, that the fifth article must be executed as though the language employed had been "anterior to the ratification thereof," instead of "anterior to the date thereof."

Mr. Pageot, in consequence of information received from the French Consul General at New York, is seriously apprehensive, (I should hope without cause,) that the Magistrate may

¹ MSS. Department of State, 36 Domestic Letters, 113. It was held that the treaty was to be considered as operating from the date of its signature. See Moore on Extradition, I. 99, citing Matter of Metzger, 5 N. Y. Leg. Obs. 83.

adopt Mr. Hoffman's construction; and has appealed to me, to prevent such a palpable violation of the letter and spirit of the Constitution. I told him, of course, that I could not interfere in a case pending before a judicial tribunal, in any other manner than by requesting you to appear before the Magistrate in behalf of the United States, and sustain what is evidently the plain meaning of the Convention.

Upon mentioning the circumstance to the President, he thinks that France might have just cause of complaint in case Metzger should not be surrendered, simply because the crime with which he is charged had been committed between the date of the treaty and the date of its ratification; and he has accordingly instructed me to request, that you shall attend to this point of the case alone. Should the decision on this point be against the extradition, he desires that the question, if practicable, may be placed in such a shape as to bring it before the Supreme Court of the United States. I am &c.

JAMES BUCHANAN.

TO MR. BANCROFT.¹

(No. 3.) WASHINGTON, 17th Octr., 1846.
GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

Among the pending claims of our citizens upon Her Britannic Majesty's Government for losses and injuries sustained by them in consequence of unwarrantable acts on the part of the British authorities, is that in the case of the bark "Jones," an American vessel improperly seized at St. Helena, in September, 1840, by Lieutenant Littlehales, of Her Majesty's brigantine "Dolphin." A reference to the correspondence and papers on file in the United States Legation at London will acquaint you with the history of the transaction and with the proceedings in the case up to the period of Mr. Everett's departure from England on his return home—the last step taken in regard to it having been Mr. Everett's request that the determination avowed by the British Government, in the Earl of Aberdeen's note to Mr. Everett of the 2d March, 1843, should be reconsidered. No

¹ MSS. Department of State, Instructions, Great Britain, XV. 334.

reply has yet been received to this application, first made in Mr. Everett's note to Lord Aberdeen of the 18th of May, 1843, and subsequently renewed in that of 14th June, 1844. Mr. McLane having experienced a long and severe illness during his late mission, and his time, moreover, having been engrossed by a subject of paramount national importance, his attention was not particularly directed to the subject by this Department, and consequently no further steps were taken in it by him. Several years have already elapsed since the claim was presented by Mr. Stevenson; and the owners of the vessel and cargo—Messrs. P. J. Farnham & Co. of Salem, are naturally anxious for its satisfactory adjustment and settlement. You will, therefore, soon after your arrival at your post, fully inform yourself of the exact position of the case, and ask for an early and definitive answer to Mr. Everett's notes urging this claim upon the justice of Her Majesty's Government.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MINER, LAWRENCE & CO.¹

DEPARTMENT OF STATE,

WASHINGTON Oct. 31st 1846.

MESSRS. MINER, LAWRENCE & Co.

New London, Connct.

GENTLEMEN,

I have to acknowledge receipt on the 26th inst: of your letter under date the 10th, presenting a claim to certain amounts therein specified, on the ground that they have been unlawfully exacted from Capt. Ezra S. Porter, as Master of your Ship "Helvetia," by Mr. Alexander G. Abell, late Consul of the United States at the Hawaiian Islands.

I have to state, in reply, that no authority is vested in this Department to afford redress in any shape—whether it be in that of restitution, or compensation, or any other, for official misconduct on the part of Consuls. It has no such authority in regard to them, any more than with respect to other Officers of the Government. The only power over them, beyond that of

¹ MSS. Department of State, Despatches to Consuls, XI. 509.

giving orders & instructions, which resides in the Executive, consists in that of removal from Office; and it is with reference only to the exercise of these powers that it is competent to judge & decide any question of alleged extortion or other wrong, perpetrated by means of the power, or under color of the Authority, attached to public posts. For any action beyond this, the sufferer must look to the other branches of the Government; the judicial and the legislative.

The right of Consuls to make charges, and to require their payment, is founded entirely on the laws of Congress, and on instructions issued in pursuance of law. Beyond this, no such right exists; and the question of its existence in the case of any payment which may have been exacted is a purely judicial question. So also is the question whether the Official Bond which every Consul is required by law to give is, or is not, to be deemed & held to constitute a means of redress to individuals who may suffer from extortion or other wrong committed under color of the authority of the Office.

The Papers transmitted by you are herewith returned.

I am, Gentlemen,

Respectfully, Your obt. Servt.

JAMES BUCHANAN.

TO THE GOVERNORS OF MASSACHUSETTS
AND MAINE.¹

DEPARTMENT OF STATE,

WASHINGTON, November 3, 1846.

HIS EXCELLENCY, THE GOVERNOR OF MASSACHUSETTS (Boston)
HIS EXCELLENCY, THE GOVERNOR OF MAINE (Augusta)

SIR:

Mr. Pakenham, the British Minister, on the 28th ultimo, delivered me a letter from Sir William Colebrooke, dated on the 30th September last, communicating the information "that the settlement of the disputed territory fund account has this day been formally concluded by the payment to Messrs. Hodsdon & Coffin of the estimated balance of the account and the delivery to them of the bonds pursuant to the 5th article of the Treaty of Washington."

¹ MSS. Department of State, 36 Domestic Letters, 121.

Under this article, the money found to be due on the settlement of this account ought to have been paid and the Bonds ought to have been delivered over to the Government of the United States. But it appears that the agents of the states of [Maine] and [Massachusetts] have received both the money and the bonds, and as this Government was but a mere trustee for these states, this irregularity cannot, perhaps, produce any injurious consequences. It is very certain, however, that at the time I furnished them the letter of introduction to Sir William Colebrooke, I had not anticipated that they would do more than settle the account.

Mr. Pakenham has called on me for an acquittance to be transmitted to the British Government. This I cannot give him without receiving in the first place a joint acknowledgment from your Excellency and the Governor of [Massachusetts] [Maine] that you have received all the money and bonds due to the two states under the fifth article of the Treaty of Washington. This ought to be accompanied, for the files of the Department, with a statement of the terms of settlement made with the Lieutenant Governor of New Brunswick by your agents.

Permit me to request that you will give your attention to this subject as soon as may be convenient.

I am, &c.

JAMES BUCHANAN.

TO MR. COOPER.¹

DEPARTMENT OF STATE,
WASHINGTON, November 6, 1846.

GEORGE D. COOPER, ESQR.

(Notary Public, New York.)

SIR:

Your two letters of the 4th instant, applying for passports, have been received this day. In the one you state, "a passport is required for William P. Powell. Mr. Powell is of a mulatto color, but of Indian extraction," and each is accompanied by an affidavit that the person on whose behalf you make the application, "was born" at the place named therein.

On referring to the enclosed copy of a circular on the sub-

¹ MSS. Department of State, 36 Domestic Letters, 125.

ject, you will perceive, that, inasmuch as the passport certifies the bearer to be a *citizen* of the United States, the Department can have no authority to issue one to any person except upon proof of his being at the time a *citizen*. This, therefore, is the fact to be established, and with reference to which the rules of the Department have necessarily been framed. This fact is a totally distinct one from that of birth. Birth within the United States does not even constitute proof of citizenship; it affords a presumption of it, and that is all. Accordingly, the rules of the Department require, that "when the applicant is a native citizen, he must transmit an affidavit of this fact," that is, of the fact that he is a *citizen* of the United States, born in the United States. I must call your attention likewise to the other particulars specified under that head, one of which requires that the affidavit, when it purports to have been made before a Notary Public, shall be verified by his "seal of office," this seal constituting the best protection the Department can have against applications that might be falsely made in the name of a Notary.

The subject of citizenship is one of so delicate and important a nature, that it is indispensable that all the rules in regard to passports be strictly observed, and that all affidavits relating to them, which issue from the offices of Notaries Public and other state functionaries, be in strict accordance with the forms prescribed by the laws under the authority of which they act.

I am, &c.

JAMES BUCHANAN.

TO DALLETT BROTHERS.¹

DEPARTMENT OF STATE,
WASHINGTON, November 7, 1846.

MESSRS. DALLETT, BROTHERS,
(Philadelphia.)

GENTLEMEN:

Your letter of the 16th ult. has been received, requesting that Mr. Shields may be instructed to demand from the Venezuelan Government the refunding of certain port charges levied upon your vessel, the American barque, Paez. This claim, on your part, is founded upon a law of that republic, dated May 23, 1845, exempting from port charges for the period of one year

¹ MSS. Department of State, 36 Domestic Letters, 127.

all vessels built in Venezuela subsequently to that date; and upon the 4th article of the treaty between the United States and that republic, which stipulates "that no higher or other duties upon the tonnage of the vessel and her cargo shall be levied or collected, whether the importation be made in vessels of the one country or the other."

To make a case of violation of this stipulation on the part of Venezuela, a mere act of her legislature, which has never been carried into effect (whatever may have been the cause of this) is not sufficient. No such violation can be said to have occurred, unless a vessel of the United States has been made to pay, in a port of Venezuela, "other or higher port charges" than were at the same period actually levied upon Venezuelan vessels; or unless Venezuelan vessels have actually enjoyed a total exemption from port charges, whilst such charges were levied on American vessels.—In a word, it is indispensable that the equality which it was the intention of the Treaty practically to establish between the vessels of both countries, shall have been actually disturbed. It is altogether insufficient, that there has been upon the statute book of Venezuela a law, under the operation of which it *might have* been disturbed, had Venezuelan vessels been in existence upon which it might operate, and had it been carried into effect with respect to them.

It is a received maxim of international, no less than of domestic, law, that the mere intention to disregard a contract or agreement constitutes no violation of that contract. Now, not only does it appear, from your statement of the case, that there has not occurred, under this law, any departure whatever from the rule established by the Treaty; but it further appears that the case does not present any ground for imputing to the Venezuelan Government an intention to violate that rule. In the first place no Venezuelan vessel has presented herself, as, according to your letter, the obnoxious law was actually repealed when brought to your notice by the Chargé des Affaires of the United States.

I am, Gentlemen, very respectfully, &c.

JAMES BUCHANAN.

TO MR. HARRIS.¹

No. 9.

DEPARTMENT OF STATE,

WASHINGTON, 12th November, 1846.

To WILLIAM A. HARRIS, ESQUIRE,
etc., etc., etc.

SIR:—

Your despatches to No. 5, inclusive, have been received. The last from Mr. Brent is his No. 18 of the 4th of April.

None of his despatches yet received has alluded to the offer of mediation made by him, in the name of the United States, between the Governments of Buenos Ayres and Paraguay. Indeed the first knowledge of such an offer which reached the Department was communicated to me by your despatch No. 1, of the 14th July, last, which also informed me that Mr. Brent, after his mediation had been accepted by Buenos Ayres, despatched his son Mr. George Lee Brent and Mr. Joseph L. Graham as special agents to Paraguay, with a letter from him to President Lopez. You were mistaken in mentioning that a copy of this letter was attached to your despatch, but I obtained one three days ago from Mr. Brent himself, who reached this City about the middle of the last month.

As these agents will probably return to Buenos Ayres and make report to your Legation, you ask to be instructed what you shall do in such a contingency.

In answer to your inquiry, I need scarcely say that this offer of mediation was made by Mr. Brent without authority, and is in direct opposition to the established policy of this Government. My instructions to you of the 30th March, last, are so full and explicit on this subject as to render a mere reference to them all that is necessary upon the present occasion.

You will, therefore, refrain from taking any part as a mediator between the Governments of Buenos Ayres and Paraguay, and be careful not to commit the Government of the United States either directly or indirectly as a guarantee or otherwise of any arrangement into which they may enter. In order to prevent all mistakes, you ought to make known your true position to the parties. This Government will not hold itself responsible in any manner for the offer of mediation made by Mr. Brent nor for any of his acts to carry it into execution.

¹ MSS. Department of State, Instructions, Argentine Republic, XV. 31.

Still, the unauthorized acts of your predecessor may render your position extremely delicate, and you should exert your best efforts to conduct yourself in such a manner as not to give offence to either of the parties. This Government earnestly desires that the unhappy differences between them should be amicably and honorably adjusted. We feel a deep interest in the peace and prosperity of both, and are opposed to all and especially to European interference in their domestic concerns. If, therefore, as a common friend, not as a mediator, you can make yourself useful in bringing the parties together and persuading them to adjust their differences in a satisfactory manner, this conduct would meet the cordial approbation of the President. The employment of your good offices for a purpose so laudable is a matter entirely different from acting in the character of a mediator.

If then when Messrs. Brent and Graham shall return from Paraguay, you should find that President Lopez has accepted the offered mediation, you may exert your friendly offices simply as Chargé d'Affaires of the United States in procuring a meeting of the Plenipotentiaries.

After this meeting shall have been accomplished, you ought to be cautious in giving your advice. The danger in such cases is that one or both parties may become jealous. Still as a common friend this ought not to be withheld, if you should perceive that it may be useful to both without giving offence to either.

The President does not intend publicly to disavow the offer of mediation made by Mr. Brent. This might assume the appearance before the world of a want of friendship for the parties which would be far from the reality. It is sufficient, therefore, that this disavowal should be communicated confidentially to these two Governments through their Ministers. It shall not be made known by this Department unless unexpected circumstances should occur, which might render this necessary.

Should Messrs. Brent and Graham return, with an unfavorable answer from the President of Paraguay, then the affair will be ended without any interposition on your part further than to communicate the result to the Government of Buenos Ayres. But even in this event it would be proper to inform Mr. Arana of Mr. Brent's want of authority to offer the mediation of this Government.

I am, Sir, very respectfully, Your obedient servant,
JAMES BUCHANAN.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,
WASHINGTON, November 13, 1846.

BENJAMIN F. BUTLER, ESQR.

(Attorney U. S. Southern Dist. New York)

SIR:

I have received your two letters of the 22d and 30th ultimo, relative to the extradition of Metzger, and am gratified by your prompt attention to my request.

Mr. Pageot has just left me. He has been informed by the French consul that Judge Edmonds had declared he would discharge Metzger on the ground that Justice Drinker had no jurisdiction under the convention with France to grant the warrant. The practice has been under the Treaty with Great Britain to obtain these warrants from State magistrates. As this proceeding raises a question on the true construction of the convention with France, it is my desire that you should take a part in it, if not too late, before Judge Edmonds.

I presume there is no doubt of Metzger's guilt; and, if so, it would be unfortunate that the first application under the Convention should be defeated, by any objection not involving the merits. Should Judge Edmonds decide that Justice Drinker had no jurisdiction, perhaps the better course would be to apply at once for a warrant from Judge Betts.

I would thank you to give your attention in this case to all which concerns the construction of the convention. Good faith on our part requires that this should be correctly settled, according to the meaning of the parties. Whether the facts make out a case for extradition is a question which belongs to the Judicial authority appealed to, and these must be made out to its satisfaction by those who apply for the extradition.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 129.

TO MR. HARRISON.¹

DEPARTMENT OF STATE,

WASHINGTON, 16th Novr. 1846.

ROBERT M. HARRISON, ESQRE.

U. S. C. Kingston, Jamaica.

SIR,

I have duly received your despatch No. 360 of the 1st of September last, acquainting me with your late proceedings in the case of Captain M. R. Frisbie, and enclosing the documents you have collected in proof of his innocence of the charge of abduction and piracy brought against him at Jamaica; as well as copies of the examinations before the Magistrates at Montego Bay, in January last, by reason of which he was detained.

The necessary authentications have been procured to the original affidavits of two Citizens of Cincinnati, which were also transmitted with your above-mentioned despatch; and in accordance with your request, they are now returned to you.

You will doubtless have received from Mr. Boyd, the Acting Chargé d'Affaires of the United States at London, a communication informing you of the disposition he has made of the papers sent to him with your letter of the 21st of September last; and you will not fail to perceive that some explanation on your part will be proper, to enable our Diplomatic Representative at that Court to remove the unfavorable impressions which seem to have arisen out of the fact of your having withheld from the Crown Officers at Jamaica the evidence in your possession tending to prove Capt. Frisbie's innocence.

I enclose copy of a despatch on that subject & its enclosures, recently received from Mr. Boyd.

I am Sir &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Despatches to Consuls, XII. 261.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,
WASHINGTON 19 November 1846.

THE RIGHT HONBLE. R. PAKENHAM,
&c., &c., &c.

SIR:

I have received the note which you did me the honor to address to me on the 9th instant, communicating an extract of a despatch from Her Britannic Majesty's Commissioners at the Cape of Good Hope to the Earl of Aberdeen, dated on the 6th of April last, wherein they state that they have "learned that equipments for slave vessels are brought to the East Coast under the flag of the United States;" and stating that you are instructed to suggest the necessity of taking measures for preventing the abuse of the United States flag on that coast for purposes of slave trade.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. FOSTER.²

Strictly Confidential.

WASHINGTON 19 November 1846.

MY DEAR SIR/

There has not been nor is there a vacancy in the Marine Corps: so that young Mr. Drum cannot, at least for the present, receive an appointment. As one Regiment from Pennsylvania, to rendezvous at Pittsburg, has been called into service, he may possibly obtain a place in it by election. I should gladly serve him, if this were in my power.

Disapproving, as you know I have always done, of the Tariff of 1846, I yet do not concur in opinion with you, that it will make the State permanently Whig. The circumstances under which it will go into operation are favorable. Iron & coal, for some time to come, must command a high price; & the universal failure of the last harvest throughout Europe will keep up the prices of our bread stuffs & other agricultural productions. I trust that a modification of the Tariff of 1846 will be effected

¹ MSS. Department of State, Notes to Great Britain, VII. 148.

² Buchanan Papers, Historical Society of Pennsylvania.

before the Manufacturers & Coal Dealers can be seriously injured. Indeed, for the mere purpose of revenue, this may very soon become necessary.

I confess I look with much apprehension to the present political condition of Pennsylvania. Our system of internal improvements was conducted in such a manner before the accession of Governor Shunk, as to engender a swarm of blood suckers who grew rich upon the plunder of the State. An honest administration has rendered these men desperate & nothing will satisfy them but the selection of a Governor whom they can use for their own advantage. It is such men who have raised a clamor against the one term principle, as anti-Democratic! This system, if adopted in the State, would render the Governor wholly irresponsible to the people. Could these men succeed in selecting one of their own disciples as a candidate, his defeat would be inevitable.

From letters which I receive daily I know they are now at work tickling the vanity of different aspirants throughout the State, & endeavoring to have delegates elected who shall be uncommitted, if not instructed against Governor Shunk. If a majority of such delegates should be elected to the Convention, they calculate upon a combination among them in favor of some one of their own adherents. With this view of the subject, I shall look with intense anxiety for the proceedings of the County Convention of old Westmoreland now about to assemble. Should they elect Delegates instructed to vote for Governor Shunk, such is the moral influence of "the Star in the West," that their machinations will probably at once be crushed. I presume you can have no doubt of my friendship for yourself; & if ever I was clear in any opinion it is, that you could not do yourself or the State a greater service than by exerting your influence in behalf of Governor Shunk. The old & steady Democracy of the State will not abandon him. If it should be found, as I believe it will not, that he is not the proper man, they will then take the matter into their own hands: & I venture to say that none of the instruments of Governor Porter or of those connected with him will succeed in obtaining the nomination. Those who acted either covertly or openly against Foster are out of the question.

With my best regards for Mrs. Foster, I remain as ever
Sincerely your friend

HON: HENRY D. FOSTER.

JAMES BUCHANAN.

TO MR. BEACH.¹

DEPARTMENT OF STATE,
WASHINGTON, 21 November, 1846.

To MOSES Y. BEACH, ESQUIRE,
&c., &c., &c.

SIR:

The President having learned that you were about to visit the City of Mexico on your own private business, and reposing full confidence in your patriotism, ability and discretion, has thought proper to appoint you as a confidential agent to the Republic of Mexico. You are well aware that the President had resorted to every honorable means to avoid the existing war; and whilst prosecuting it with vigor, he has been anxious, ever since its commencement, to make peace on just and honorable terms. It is known that you entertain the same desire: and in all your conduct and conversation in Mexico, you ought to keep this object constantly in view.

The trust thus confided to you is one of great delicacy and importance. In performing the duties which it imposes, great prudence and caution will be required. You ought never to give the slightest intimation to any person, either directly or indirectly, that you are an agent of this Government, unless it may be to Mr. Black, our Consul at Mexico, or to some high officer of that Government, and to the latter only after you shall have clearly discovered that this may smooth the way to peace. Be upon your guard against their wily diplomacy, and take care that they shall obtain no advantage over you.

You will communicate to this Department, as often as perfectly safe opportunities may offer, all the useful information which you shall acquire. Should you have any very important intelligence to transmit, it may be sent through Mr. Black to the Commander of our naval forces off Vera Cruz, who, upon his request, will doubtless despatch it to Pensacola.

Your compensation will be at the rate of six dollars per day from the time of your departure from the United States until your return; and you will be allowed your own travelling and other necessary expenses during your absence, for which you will take vouchers when these can be obtained without leading to a discovery of the character in which you are employed. It

¹ MSS. Department of State, Special Missions, I. 257.

will greatly facilitate the satisfactory settlement of your accounts, if you would make regular entries of your expenditures as soon as may be convenient after they occur.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN,
Secretary of State.

TO MR. BARTON.¹

DEPARTMENT OF STATE,
WASHINGTON, November 21, 1846.

SETH BARTON, ESQR.

(Solicitor of the Treasury.)

SIR:

I have received your letter of the 13th instant, with its enclosure, relating to the manufacture, within the province of Canada, of counterfeit silver coin in imitation of United States half dollars, for introduction and circulation in the adjoining states of this Union; and suggesting the propriety of bringing the subject to the notice of the appropriate British authorities, with a view to the effectual abatement of the evil referred to.

To enable this Department to move in the matter with any prospect of a satisfactory result, more particular and detailed information on the subject is requisite. If, therefore, you will have the goodness to procure from Mr. Linsley, and communicate to me, all the facts he can obtain respecting "the manner of carrying on the business," and more especially "the places where the counterfeit coin is made," the Department will then be enabled to judge what course it will be best to adopt in the premises.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 133.

TO MR. SERRETTA.¹

DEPARTMENT OF STATE,
WASHINGTON, November 21, 1846.

TO THE REVD. JNO. SERRETTA

(care of Rt. Rev. Dr. Blanc, Bishop of N. Os.)

SIR:

I have received a letter from Hon. James B. Bowlin, enclosing and strongly recommending to favorable consideration a memorandum from the Revd. John Timon of St. Louis, wherein he requests that passports or permits be granted to the Revd. John Serretta, Revd. Jno. B. Figerola, and Rev. John Buguet, three Spanish priests of the order of St. Vincent of Paul, who desire to repair to Mexico to aid the priests of the same society who about two years ago made their first establishment in that city, simultaneously with another by the Sisters of Charity under their direction. It is desired that these passports may be granted them, so that if they find any vessel going to Vera Cruz, with the permission of our Government, the Captain of such vessel may have no objection to take them as passengers, even as he would were we at peace with Mexico.

The Rev. John Timon also requests that my answer be addressed to you, Sir, at New Orleans. I have, therefore, the honor to state, that, had it been practicable, it would have given me very sincere pleasure to comply with a request emanating from so respectable a source, and having in view an object which cannot but commend itself in the strongest manner to the good wishes of every humane man. The indulgence of this disposition is, however, entirely impossible on the present occasion, in consequence of the state of the relations between the two countries, now unfortunately subsisting. Owing to this cause, it is certain that no such opportunity of going from New Orleans to Vera Cruz can occur, as the one supposed in the Revd. John Timon's memorandum; and consequently that the desired passports, even if they could be granted, would not be of any use. The only way in which you could reach your destination would be through some neutral port—Havana, for instance.

I am, Sir, very respectfully, Your obedt. Servt.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 132.

TO MR. GRISWOLD.¹

(Confidential.)

DEPARTMENT OF STATE,

WASHINGTON, November 23, 1846.

GEORGE GRISWOLD, ESQR.

(New York.)

SIR:

I have received your letter of the 10th instant, relative to the instalment of interest on indemnity due in August last, under the provisions of our convention with Spain, and refer you, in reply, to the accompanying copy of a *memorandum*, containing all the information of which the Department is at present possessed, on the subject of your inquiry.

This *memorandum*, handed to me on the 20th instant, by the Spanish Minister, explains his views and wishes as to the most eligible manner of making payment in future of the annual instalments. I transmit it to you for the purpose of inviting your attention, and through you that of the scrip-holders generally, to the propositions it presents. It is desirable that I should be made acquainted with their views, to enable me to act in the matter, and I have, therefore, to request that you will submit the *memorandum*, as far as practicable, to all the parties interested, and that you will communicate to this Department their decision.

The Spanish Minister contends that his Government is under no obligation to transmit the money to the United States, and thus subject themselves to the payment of the difference of exchange. They are willing to pay the interest regularly at Havana; or, if the scrip-holders should prefer it, they will transmit the amount to the United States at a regular fixed premium of five per cent. to cover the risk.

One thing is certain. I am convinced that it is for the interest of the scrip-holders that some permanent arrangement, in the form of a Protocol, for future payments should now be made between Mr. Calderon and myself. I can easily perceive difficulties in the distance should this not be accomplished. It is true, we may insist that under the Convention these payments shall be made in Paris; but I would very much doubt whether this would benefit the scrip-holders. Indeed it might possibly place at some hazard the punctuality of the payments. The

¹ MSS. Department of State, 36 Domestic Letters, 135.

scrip-holders, however, are the best judges. I shall not enter into any arrangement without their consent in writing. Should this not be obtained to either of the propositions made by Mr. Calderon, we must fall back upon our present uncertain position.

I am, Sir, very respectfully, Your obedient Servant,

JAMES BUCHANAN.

TO MR. PICKETT.¹

DEPARTMENT OF STATE

WASHINGTON 23 Novr. 1846.

JOHN T. PICKETT ESQRE.

U. S. Consul, Turk's Island.

SIR,

Your despatch No. 19 reporting the Wreck of the Schr. "Sydney" of Norfolk, Virginia, has been received.

In this despatch you make two enquiries, to wit, 1st. "If it is not the intention of the Consular Instructions to give to Consuls the exclusive privilege of noting the protests or declarations which Masters of Vessels, & others Citizens of the U. States, may make at the place of his Consular residence."

2nd. "Whether he is not the proper person to take charge of the effects, coming from the Vessels of the U. States, which may be wrecked in his Consular district, to the entire exclusion of all others, excepting the Master or owners, &c., when present, & competent to take charge of the property."

Upon the first point, I have to refer you to the words of the Act of April 14th 1792. "They shall have right, in the ports or places to which they are, or may be severally appointed, of receiving the protests or declarations which such Captains, Masters, Crews, Passengers & Merchants, as are Citizens of the U. States, *may respectively* choose to make there; and also such as any foreigner may choose to make *before them*, relative to the personal interests of any Citizens of the U. States; and the copies of the said acts duly authenticated by the said Consuls & Vice Consuls, under the seal of their said Consulates respectively, shall receive faith in law, equally as their originals would in all Courts in the United States." From this it is clear, 1st. that you possess the right, in exclusion of all other persons, to receive

¹ MSS. Department of State, Despatches to Consuls, XII. 263.

the protests and declarations referred to, when Citizens of the United States may choose to make them within your Consulate. 2nd. That you possess a right to receive these protests & declarations, when made by a foreigner "relative to the personal interests of any Citizen of the United States." 3rd. That in either of these cases, copies of such protests & declarations, duly authenticated by you, will under the Act of Congress be received in evidence in all the Courts of the United States.

Your second enquiry will be found fully answered by the Consular Instructions & the Acts of Congress referred to therein & appended thereto. These will inform you in very precise terms upon what occasions, & under what circumstances, the Consul is the proper person to take charge of the property belonging to Citizens of the U. States, whether the custody of it devolve upon him by shipwreck, or by other casualty.

I am, Sir, respectfully &c.

JAMES BUCHANAN.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,
WASHINGTON, November 25, 1846.

BENJAMIN F. BUTLER, ESQR.

(U. S. District Attorney, City of New York.)

SIR:

I have submitted your letter of yesterday to the President, and hasten to give it an answer by the returning mail.

The President does not believe that he would be warranted in directing the Marshal of the United States to apprehend Metzger and enter upon an investigation for the purpose of deciding whether, under the convention with France, the fact of the commission of the crime with which he is charged has been so established as to justify his commitment for trial according to the laws of New York. This would be the performance of a Judicial, not an Executive, duty.

The President, however, does not perceive the difficulty in the case. According to the opinion of Judge Edmonds, the proceedings before the State Magistrate are void for want of jurisdiction. They can, therefore, interpose no difficulty in the

¹ MSS. Department of State, 36 Domestic Letters, 137.

way of an application to one of the Judges of the Federal court. It is not apprehended that either of them would refuse to execute a Treaty, which is the supreme law of the land, in a case clearly judicial in its character. If, however, contrary to expectation, this should be the result, then the President will have done all that he could to prevent a violation of national faith.

The President is very solicitous that in this the first case of a demand for extradition under the convention with France the fugitive should not be permitted to escape, provided the evidence against him is sufficient to justify his apprehension and commitment. He, therefore, requests you to take care that this shall not be the case; and to advise those concerned to make immediate application for a warrant to one of the Federal judges. If his authority should be questioned, in the progress of the investigation, you will appear before him and advocate his jurisdiction.

I am, &c.

JAMES BUCHANAN.

TO MR. MASON.¹

DEPARTMENT OF STATE,
WASHINGTON, November 27, 1846.

JNO. L. MASON, ESQR.
(New York.)

SIR:

Your letter of the 24th instant has been received, enclosing a copy of a memorial of James Valeton and accompanying documents, which papers, having emanated from this Department on the 21st March, 1837, are authenticated by a certificate in the usual form, under the seal of the Department and the signature of the Secretary of State, as being "true copies of the original papers now on file in this Department." They are now transmitted by you "for the purpose of having a certificate annexed in such form as to entitle it (the memorial and documents,) to be read in evidence in our courts"—which form you state requires that they be "certified by the head or acting chief officer at the time being of such department, to have been compared by him with the original and to be a correct transcript therefrom and of the whole of such original:" and you request that I will

¹ MSS. Department of State, 36 Domestic Letters, 138.

cause such a certificate to be annexed in lieu of the one at present attached, and send it to you in the course of the week.

I regret, Sir, to be under the necessity of stating, that a compliance with this request is impossible; my time being fully engrossed, at this period particularly, by the more important duties of the Department. So great, indeed, is the magnitude to which its ordinary business has already attained, that there are very few days in the year, if any, when any portion of the time of the Secretary of State could be employed in collating copies of papers with their originals, except at the sacrifice of other business which from its nature presents far stronger claims upon his personal attention, because admitting less of having its details confided to subordinate officers, and being safely despatched in full reliance that it has received from them all necessary care.

In returning to you the papers with the authentication attached to them by Mr. Forsyth in 1837, I experience the less concern at the impossibility of complying with your request from my conviction that but one result can follow, if the question respecting the sufficiency of that authentication be raised in court.

The constitution of the United States (Art. 4. Sec. 1.) after providing that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state," gives to Congress the power to "prescribe the manner in which such acts, records, and proceedings shall be proved."

The power thus expressly conferred in regard to the public acts, &c., of the several state authorities, was exercised with reference to the records of this Department (which being an office of the Federal government required no such express grant of power in regard to it) by the act of Sept. 15, 1789, the 5th section of which provides that "all copies of records and papers, in the said office, authenticated under the said seal" (of the Department of State) "shall be evidence equally as the original record or paper."

As between the respective states, this power was exercised by the Acts of May 26, 1790, and March 27, 1804, and by the second section of the latter act, the provisions of both are made to apply to the records, &c., of public officers of the United States, when proof of such records, &c., is to be adduced in the State courts.

Upon such consideration of the subject as I have been enabled to bestow since the receipt of your letter, I am clearly of opinion, that the copy now returned to you, being "authenticated under the seal of the Department of State," is entitled "equally as the original record or paper" to be received in evidence, in the courts of every state of this Union; and that consequently no state law can be constitutional which establishes any other requisite to its admissibility.

I am, &c.

JAMES BUCHANAN.

P. S. As the document which you desire to have authenticated may be a paper of importance to some individual, I shall keep it until to-morrow, and if I can possibly spare the time shall make the comparison. Hereafter I shall establish a general rule upon the subject. I trust that the next Legislature of New York may so modify their law as to prevent any difficulties which might arise out of its discrepancy with the acts of Congress.

(*Note.* The copies referred to in the above were enclosed to Jno. L. Mason, Esq., together with the authentication of the Secretary of State in the form required by Mr. Mason, and deposited in the P. O. this day by me. Nov. 28, 1846.

L. W. Jr.)

TO MR. WISE.¹

No. 28.

DEPARTMENT OF STATE,
WASHINGTON, 2nd December, 1846.

To HENRY A. WISE, ESQUIRE,
etc., etc., etc.

SIR:—

Your despatches to No. 48, inclusive, have been received.

The apathy of the Brazilian Government upon the subject of the claims of the citizens of the United States and its persevering neglect to adopt measures for their adjustment, are causes of just and serious dissatisfaction to the President. This is increased by the knowledge that your efforts to obtain a final settlement of these claims have been marked by ability and unceasing diligence. It is impossible to understand how the Brazilian Government can suppose that its course harmonizes with the interest which it undoubtedly has in preserving the best

¹ MSS. Department of State, Instructions, Brazil, XV. 133.

understanding with the United States, and with the friendship towards us which it has uniformly professed. We know that its revenue is by no means so superabundant that some inconvenience may not be occasioned by any extraordinary demand. The amount of our just claims however is comparatively so inconsiderable that any embarrassment which might arise from the recognition and gradual discharge, would be far outweighed by the advantages which must result from that measure. Besides, the prompt justice rendered to British and French claimants by the Brazilian Government, is in striking contrast with their conduct in regard to the claims of American citizens.

Upon the receipt of this despatch, you will address a communication to the Minister for Foreign Affairs, in which you will say that the President of the United States deems it due to the interests of both countries that the state of suspense which has so long existed as to the intentions of the Brazilian Government in regard to these claims, should cease. That the negotiations upon the subject which have already been too long protracted, ought to be brought to a close before the period shall arrive when you have expressed a desire to terminate your mission; and that in the event of an unfavorable issue, it will become the President's duty to submit the whole question to Congress for such action as that Body may think proper to adopt. You will be careful to convey these ideas in decided but respectful language, in which you will avoid the least intimation of a threat.

In the intercourse between nations, firmness and decision always produce a more powerful effect when clothed in the language of diplomatic courtesy. No pretext is then afforded for those to whom it is addressed to substitute an issue upon the mere form of expression for that on the substance of the demand.

Some weeks since, I had an interview with Mr. Lisboa on the subject of our claims against his Government, in which I expressed the sentiments contained in this despatch. These he promised to communicate without delay to the Brazilian Minister for Foreign Affairs, and he has doubtless performed this promise. That functionary will, therefore, be prepared for the communication which you are instructed to make.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO THE PROPRIETORS OF THE NEW
YORK SUN.¹

DEPARTMENT OF STATE,

WASHINGTON, December 5, 1846.

PROPRIETORS OF THE NEW YORK SUN,
(New York.)

GENTLEMEN:

I take pleasure in making my acknowledgments for the offer so courteously and liberally made in your name by the editor of the New York Sun, under date the 24th ultimo, to transmit to this Department by Telegraph such intelligence in relation to Mexico as you may hereafter come into possession of and shall deem it important to our Government to receive at the earliest possible moment. Aware of the great advantages which your establishment possesses for obtaining early and authentic news, I very gladly avail myself of your liberality in thus offering the use of them to the Department, and will ask the favor of you to transmit to it any information from the quarter referred to, which in your best judgment shall be of sufficient importance to warrant a resort to the Telegraph.

I am &c.

JAMES BUCHANAN.

TO MR. SAUNDERS.²

(No. 6.)

DEPARTMENT OF STATE,

WASHINGTON, 7th December, 1846.

ROMULUS M. SAUNDERS, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your despatches to No. 4 inclusive.

In your letter to the Department of the 20th of August last, you refer to three several notes which had passed between yourself and Her Majesty's Secretary of State for Foreign Affairs, during the previous part of the same month,—in continuation of a correspondence commenced by Mr. Irving,—on the subject of a

¹ MSS. Department of State, 36 Domestic Letters, 142.

² MSS. Department of State, Instructions, Spain, XIV. 210. The last paragraph of this instruction is printed in H. Ex. Doc. 121, 32 Cong. 1 Sess. 42.

proposed offer, by Spain, to mediate between the United States and Mexico, with the view of effecting a conclusion of the state of hostilities now existing between the two Republics.

Mr. Irving, with his despatch No. 83, had transmitted hither a transcript of his note to Mr. Isturiz of the 17th of July; but copies of the subsequent correspondence between the United States Legation at Madrid and the Spanish Foreign Office, on the same subject, have not been received. It is true that abstracts of these notes are embraced in your despatch No. 2; but it would have been much better to have sent with it copies of them in extenso. Indeed, the omission to do so has been productive of no little embarrassment. I have, therefore, to request that you will supply the missing papers without unnecessary delay, and that, in future, you will strictly observe the injunction, in this regard, contained in the supplement to the printed personal instructions to the diplomatic agents of the United States abroad, "to furnish the Department with copies of all official notes or letters received" at the Legation, "as well as of the answers given."

The enclosed paper, marked "extract," is a copy of one received from Mr. Yulee, Senator from Florida, who states certain particulars in regard to the writer of the letter from which the "extract" is made, showing that he has enjoyed very peculiar opportunities for becoming well informed upon the subject. Mr. Yulee says, in conclusion, that he is "of opinion that the information he gives is deserving the attention of this government." It would seem scarcely within the bounds of possibility that any consideration which could possibly be offered by Spain could operate as an effectual inducement with Great Britain to relinquish Gibraltar. A knowledge of the views of Mr. Yulee's correspondent, even though they should be erroneous in this particular, may, however, prove useful to you.

I am, sir, respectfully, your obedient servant,

JAMES BUCHANAN.

PRESIDENT POLK'S ANNUAL MESSAGE,

DECEMBER 8, 1846.¹

FELLOW-CITIZENS OF THE SENATE

AND OF THE HOUSE OF REPRESENTATIVES:

In resuming your labors in the service of the people, it is a subject of congratulation that there has been no period in our past history when all the elements of national prosperity have been so fully developed. Since your last session, no afflicting dispensation has visited our country; general good health has prevailed; abundance has crowned the toil of the husbandman; and labor in all its branches is receiving an ample reward, while education, science, and the arts are rapidly enlarging the means of social happiness. The progress of our country in her career of greatness, not only in the vast extension of our territorial limits and the rapid increase of our population, but in resources and wealth, and in the happy condition of our people, is without an example in the history of nations.

As the wisdom, strength, and beneficence of our free institutions are unfolded, every day adds fresh motives to contentment, and fresh incentives to patriotism.

Our devout and sincere acknowledgments are due to the gracious Giver of all good, for the numberless blessings which our beloved country enjoys.

It is a source of high satisfaction to know that the relations of the United States with all other nations, with a single exception, are of the most amicable character. Sincerely attached to the policy of peace, early adopted and steadily pursued by this government, I have anxiously desired to cultivate and cherish friendship and commerce with every foreign Power. The spirit and habits of the American people are favorable to the maintenance of such international harmony. In adhering to this wise policy, a preliminary and paramount duty obviously consists in the protection of our national interests from encroachment or sacrifice, and our national honor from reproach. These must be maintained at any hazard. They admit of no compromise or neglect, and must be scrupulously and constantly guarded. In their vigilant vindication, collision and conflict with foreign Powers may sometimes become unavoidable. Such has been our scrupulous adherence to the dictates of justice, in all our foreign intercourse, that, though steadily and rapidly advancing in prosperity and power, we have given no just cause of complaint to any nation, and have enjoyed the blessings of peace for more than thirty years. From a policy so sacred to humanity, and so salutary in its effects upon our political system, we should never be induced voluntarily to depart.

The existing war with Mexico was neither desired nor provoked by the United States. On the contrary, all honorable means were resorted to to avert it. After years of endurance of aggravated and unredressed wrongs on our part, Mexico, in violation of solemn treaty stipulations, and of every principle of justice recognized by civilized nations, commenced hostilities, and thus, by her own act, forced the war upon us. Long before the advance of our army to the left bank of the Rio Grande, we had ample cause of war against Mexico; and had the United States resorted to this extremity, we

¹ H. Ex. Doc. 4, 29 Cong. 2 Sess.

might have appealed to the whole civilized world for the justice of our cause.

I deem it to be my duty to present to you, on the present occasion, a condensed review of the injuries we had sustained, of the causes which led to the war, and of its progress since its commencement. This is rendered the more necessary because of the misapprehensions which have to some extent prevailed as to its origin and true character. The war has been represented as unjust and unnecessary, and as one of aggression on our part upon a weak and injured enemy. Such erroneous views, though entertained by but few, have been widely and extensively circulated not only at home, but have been spread throughout Mexico and the whole world. A more effectual means could not have been devised to encourage the enemy and protract the war than to advocate and adhere to their cause, and thus give them "aid and comfort."

It is a source of national pride and exultation, that the great body of our people have thrown no such obstacles in the way of the government in prosecuting the war successfully, but have shown themselves to be eminently patriotic, and ready to vindicate their country's honor and interests at any sacrifice. The alacrity and promptness with which our volunteer forces rushed to the field on their country's call, prove not only their patriotism, but their deep conviction that our cause is just.

The wrongs which we have suffered from Mexico almost ever since she became an independent Power, and the patient endurance with which we have borne them, are without a parallel in the history of modern civilized nations. There is reason to believe that if those wrongs had been resented and resisted in the first instance, the present war might have been avoided. One outrage, however, permitted to pass with impunity, almost necessarily encouraged the perpetration of another, until at last Mexico seemed to attribute to weakness and indecision on our part a forbearance which was the offspring of magnanimity, and of a sincere desire to preserve friendly relations with a sister republic.

Scarcely had Mexico achieved her independence, which the United States were the first among the nations to acknowledge, when she commenced the system of insult and spoliation which she has ever since pursued. Our citizens engaged in lawful commerce were imprisoned, their vessels seized, and our flag insulted in her ports. If money was wanted, the lawless seizure and confiscation of our merchant vessels and their cargoes was a ready resource; and if to accomplish their purposes it became necessary to imprison the owners, captains, and crews, it was done. Rulers superseded rulers in Mexico in rapid succession, but still there was no change in this system of depredation. The government of the United States made repeated reclamations on behalf of its citizens, but these were answered by the perpetration of new outrages. Promises of redress made by Mexico in the most solemn forms were postponed or evaded. The files and records of the Department of State contain conclusive proofs of numerous lawless acts perpetrated upon the property and persons of our citizens by Mexico, and of wanton insults to our national flag. The interposition of our government to obtain redress was again and again invoked, under circumstances which no nation ought to disregard.

It was hoped that these outrages would cease, and that Mexico would be restrained by the laws which regulate the conduct of civilized nations in

their intercourse with each other, after the treaty of amity, commerce, and navigation, of the fifth of April, 1831, was concluded between the two republics; but this hope soon proved to be vain. The course of seizure and confiscation of the property of our citizens, the violation of their persons and the insults to our flag pursued by Mexico previous to that time, were scarcely suspended for even a brief period, although the treaty so clearly defines the rights and duties of the respective parties that it is impossible to misunderstand or mistake them. In less than seven years after the conclusion of that treaty, our grievances had become so intolerable that, in the opinion of President Jackson, they should no longer be endured. In his message to Congress in February, 1837, he presented them to the consideration of that body, and declared that "The length of time since some of the injuries have been committed, the repeated and unavailing applications for redress, the wanton character of some of the outrages upon the property and persons of our citizens, upon the officers and flag of the United States, independent of recent insults to this government and people by the late extraordinary Mexican minister, would justify in the eyes of all nations immediate war." In a spirit of kindness and forbearance, however, he recommended reprisals as a milder mode of redress. He declared that war should not be used as a remedy "by just and generous nations, confiding in their strength, for injuries committed, if it can be honorably avoided," and added, "it has occurred to me that, considering the present embarrassed condition of that country, we should act with both wisdom and moderation by giving to Mexico one more opportunity to atone for the past, before we take redress into our own hands. To avoid all misconception on the part of Mexico, as well as to protect our own national character from reproach, this opportunity should be given with the avowed design and full preparation to take immediate satisfaction, if it should not be obtained on a repetition of the demand for it. To this end I recommend that an act be passed authorizing reprisals, and the use of the naval force of the United States, by the Executive, against Mexico, to enforce them in the event of a refusal by the Mexican government to come to an amicable adjustment of the matters in controversy between us, upon another demand thereof, made from on board one of our vessels of war on the coast of Mexico."

Committees of both houses of Congress, to which this message of the President was referred, fully sustained his views of the character of the wrongs which we had suffered from Mexico, and recommended that another demand for redress should be made before authorizing war or reprisals. The Committee on Foreign Relations of the Senate, in their report, say: "After such a demand, should prompt justice be refused by the Mexican Government, we may appeal to all nations not only for the equity and moderation with which we shall have acted towards a sister republic, but for the necessity which will then compel us to seek redress for our wrongs, either by actual war or by reprisals. The subject will then be presented before Congress, at the commencement of the next session, in a clear and distinct form; and the committee cannot doubt but that such measures will be immediately adopted as may be necessary to vindicate the honor of the country, and insure ample reparation to our injured citizens."

The Committee on Foreign Affairs of the House of Representatives made a similar recommendation. In their report, they say that they "fully concur with the President that ample cause exists for taking redress into

our own hands, and believe that we should be justified in the opinion of other nations for taking such a step. But they are willing to try the experiment of another demand, made in the most solemn form, upon the justice of the Mexican Government, before any further proceedings are adopted."

No difference of opinion upon the subject is believed to have existed in Congress at that time; the executive and legislative departments concurred; and yet such has been our forbearance, and desire to preserve peace with Mexico, that the wrongs of which we then complained, and which gave rise to these solemn proceedings, not only remain unredressed to this day, but additional causes of complaint, of an aggravated character, have ever since been accumulating.

Shortly after these proceedings, a special messenger was despatched to Mexico, to make a final demand for redress; and on the twentieth July, 1837, the demand was made. The reply of the Mexican Government bears date on the twenty-ninth of the same month, and contains assurances of the "anxious wish" of the Mexican Government "not to delay the moment of that final and equitable adjustment which is to terminate the existing difficulties between the two Governments;" that "nothing should be left undone which may contribute to the most speedy and equitable determination of the subjects which have so seriously engaged the attention of the American Government;" that the "Mexican Government would adopt, as the only guides for its conduct, the plainest principles of public right, the sacred obligations imposed by international law, and the religious faith of treaties;" and that "whatever reason and justice may dictate respecting each case will be done." The assurance was further given, that the decision of the Mexican Government upon each cause of complaint, for which redress had been demanded, should be communicated to the Government of the United States by the Mexican Minister at Washington.

These solemn assurances, in answer to our demand for redress, were disregarded. By making them, however, Mexico obtained further delay. President Van Buren, in his annual message to Congress of the fifth of December, 1837, states, that "although the larger number" of our demands for redress, and "many of them aggravated cases of personal wrongs, have been now for years before the Mexican Government, and some of the causes of national complaint, and those of the most offensive character, admitted of immediate, simple, and satisfactory replies, it is only within a few days past that any specific communication in answer to our last demand, made five months ago, has been received from the Mexican Minister;" and that "for not one of our public complaints has satisfaction been given or offered; that but one of the cases of personal wrong has been favorably considered, and that but four cases of both descriptions, out of all those formally presented, and earnestly pressed, have as yet been decided upon by the Mexican Government." President Van Buren, believing that it would be vain to make any further attempt to obtain redress by the ordinary means within the power of the Executive, communicated this opinion to Congress, in the message referred to, in which he said: "On a careful and deliberate examination of the contents," (of the correspondence with the Mexican Government,) "and considering the spirit manifested by the Mexican Government, it has become my painful duty to return the subject as it now stands, to Congress, to whom it belongs, to decide upon the time, the mode, and the measure of redress." Had the United States at that time adopted compulsory measures, and taken

redress into their own hands, all our difficulties with Mexico would probably have been long since adjusted, and the existing war have been averted. Magnanimity and moderation on our part only had the effect to complicate these difficulties, and render an amicable settlement of them the more embarrassing. That such measures of redress, under similar provocations, committed by any of the powerful nations of Europe, would have been promptly resorted to by the United States, cannot be doubted. The national honor, and the preservation of the national character throughout the world, as well as our own self-respect and the protection due to our own citizens, would have rendered such a resort indispensable. The history of no civilized nation in modern times has presented within so brief a period so many wanton attacks upon the honor of its flag, and upon the property and persons of its citizens, as had at that time been borne by the United States from the Mexican authorities and people. But Mexico was a sister republic, on the North American continent, occupying a territory contiguous to our own, and was in a feeble and distracted condition, and these considerations, it is presumed, induced Congress to forbear still longer.

Instead of taking redress into our own hands, a new negotiation was entered upon with fair promises on the part of Mexico, but with the real purpose, as the event has proved, of indefinitely postponing the reparation which we demanded, and which was so justly due. This negotiation, after more than a year's delay, resulted in the convention of the eleventh of April, 1839, "for the adjustment of claims of citizens of the United States of America upon the Government of the Mexican republic." The joint board of commissioners created by this convention to examine and decide upon these claims was not organized until the month of August, 1840, and under the terms of the convention they were to terminate their duties within eighteen months from that time. Four of the eighteen months were consumed in preliminary discussions on frivolous and dilatory points raised by the Mexican commissioners; and it was not until the month of December, 1840, that they commenced the examination of the claims of our citizens upon Mexico. Fourteen months only remained to examine and decide upon these numerous and complicated cases. In the month of February, 1842, the term of the commission expired, leaving many claims undisposed of for want of time. The claims which were allowed by the board, and by the umpire authorized by the convention to decide in case of disagreement between the Mexican and American commissioners, amounted to two million twenty-six thousand one hundred and thirty-nine dollars and sixty-eight cents. There were pending before the umpire when the commission expired additional claims which had been examined and awarded by the American commissioners, and had not been allowed by the Mexican commissioners, amounting to nine hundred and twenty-eight thousand six hundred and twenty-seven dollars and eighty-eight cents, upon which he did not decide, alleging that his authority had ceased with the termination of the joint commission. Besides these claims, there were others of American citizens amounting to three million three hundred and thirty-six thousand eight hundred and thirty-seven dollars and five cents, which had been submitted to the board, and upon which they had not time to decide before their final adjournment.

The sum of two million twenty-six thousand one hundred and thirty-nine dollars and sixty-eight cents, which had been awarded to the claimants, was a liquidated and ascertained debt due by Mexico, about which there could

be no dispute, and which she was bound to pay according to the terms of the convention. Soon after the final awards for this amount had been made, the Mexican Government asked for a postponement of the time of making payment, alleging that it would be inconvenient to make the payment at the time stipulated. In the spirit of forbearing kindness towards a sister republic, which Mexico has so long abused, the United States promptly complied with her request. A second convention was accordingly concluded between the two Governments on the thirtieth of January, 1843, which upon its face declares, that "this new arrangement is entered into for the accommodation of Mexico." By the terms of this convention, all the interest due on the awards which had been made in favor of the claimants under the convention of the eleventh of April, 1839, was to be paid to them on the thirtieth of April, 1843, and "the principal of the said awards, and the interest accruing thereon," was stipulated to "be paid in five years, in equal instalments every three months." Notwithstanding this new convention was entered into at the request of Mexico, and for the purpose of relieving her from embarrassment, the claimants have only received the interest due on the thirtieth of April, 1843, and three of the twenty instalments. Although the payment of the sum thus liquidated, and confessedly due by Mexico to our citizens as indemnity for acknowledged acts of outrage and wrong, was secured by treaty, the obligations of which are ever held sacred by all just nations, yet Mexico has violated this solemn engagement by failing and refusing to make the payment. The two instalments due in April and July, 1844, under the peculiar circumstances connected with them, have been assumed by the United States and discharged to the claimants, but they are still due by Mexico. But this is not all of which we have just cause of complaint. To provide a remedy for the claimants whose cases were not decided by the joint commission under the convention of April the eleventh, 1839, it was expressly stipulated by the sixth article of the convention of the thirtieth of January, 1843, that "a new convention shall be entered into for the settlement of all claims of the Government and citizens of the United States against the republic of Mexico which were not finally decided by the late commission, which met in the city of Washington, and of all claims of the Government and citizens of Mexico against the United States."

In conformity with this stipulation, a third convention was concluded and signed at the city of Mexico on the twentieth of November, 1843, by the plenipotentiaries of the two Governments, by which provision was made for ascertaining and paying these claims. In January, 1844, this convention was ratified by the Senate of the United States, with two amendments, which were manifestly reasonable in their character. Upon a reference of the amendments proposed to the Government of Mexico, the same evasions, difficulties and delays were interposed which have so long marked the policy of that Government towards the United States. It has not even yet decided whether it would or would not accede to them, although the subject has been repeatedly pressed upon its consideration.

Mexico has thus violated a second time the faith of treaties, by failing or refusing to carry into effect the sixth article of the convention of January, 1843.

Such is the history of the wrongs which we have suffered and patiently endured from Mexico through a long series of years. So far from affording reasonable satisfaction for the injuries and insults we had borne, a great

aggravation of them consists in the fact, that while the United States, anxious to preserve a good understanding with Mexico, have been constantly, but vainly, employed in seeking redress for past wrongs, new outrages were constantly occurring, which have continued to increase our causes of complaint and to swell the amount of our demands. While the citizens of the United States were conducting a lawful commerce with Mexico under the guaranty of a treaty of "amity, commerce, and navigation," many of them have suffered all the injuries which would have resulted from open war. This treaty, instead of affording protection to our citizens, has been the means of inviting them into the ports of Mexico, that they might be, as they have been in numerous instances, plundered of their property, and deprived of their personal liberty if they dared insist on their rights. Had the unlawful seizures of American property, and the violation of personal liberty of our citizens, to say nothing of the insults to our flag which have occurred in the ports of Mexico, taken place on the high seas, they would themselves long since have constituted a state of actual war between the two countries. In so long suffering Mexico to violate her most solemn treaty obligations, plunder our citizens of their property, and imprison their persons without affording them any redress, we have failed to perform one of the first and highest duties which every government owes to its citizens; and the consequence has been, that many of them have been reduced from a state of affluence to bankruptcy. The proud name of American citizen, which ought to protect all who bear it from insult and injury throughout the world, has afforded no such protection to our citizens in Mexico. We had ample cause of war against Mexico long before the breaking out of hostilities. But even then we forbore to take redress into our own hands, until Mexico herself became the aggressor by invading our soil in hostile array, and shedding the blood of our citizens.

Such are the grave causes of complaint on the part of the United States against Mexico—causes which existed long before the annexation of Texas to the American Union; and yet, animated by the love of peace, and a magnanimous moderation, we did not adopt those measures of redress which, under such circumstances, are the justified resort of injured nations.

The annexation of Texas to the United States constituted no just cause of offence to Mexico. The pretext that it did so, is wholly inconsistent, and irreconcilable with well authenticated facts connected with the revolution by which Texas became independent of Mexico. That this may be the more manifest, it may be proper to advert to the causes and to the history of the principal events of that revolution.

Texas constituted a portion of the ancient province of Louisiana, ceded to the United States by France in the year 1803. In the year 1819, the United States, by the Florida treaty, ceded to Spain all that part of Louisiana within the present limits of Texas; and Mexico, by the revolution which separated her from Spain, and rendered her an independent nation, succeeded to the rights of the mother country over this territory. In the year 1824, Mexico established a federal constitution, under which the Mexican republic was composed of a number of sovereign States, confederated together in a federal Union similar to our own. Each of these States had its own Executive, Legislature, and Judiciary, and, for all except federal purposes, was as independent of the General Government, and that of the other States, as is Pennsylvania or Virginia under our Constitution. Texas and Coahuila united

and formed one of these Mexican States. The State constitution which they adopted, and which was approved by the Mexican confederacy, asserted that they were "free and independent of the other Mexican United States, and of every other power and dominion whatsoever;" and proclaimed the great principle of human liberty, that "the sovereignty of the State resides originally and essentially in the general mass of the individuals who compose it." To the government under this constitution, as well as to that under the federal constitution, the people of Texas owed allegiance.

Emigrants from foreign countries, including the United States, were invited by the colonization laws of the State and of the federal Government to settle in Texas. Advantageous terms were offered to induce them to leave their own country and become Mexican citizens. This invitation was accepted by many of our citizens, in the full faith that in their new home they would be governed by laws enacted by representatives elected by themselves, and that their lives, liberty, and property, would be protected by constitutional guarantees similar to those which existed in the republic they had left. Under a Government thus organized they continued until the year 1835, when a military revolution broke out in the city of Mexico, which entirely subverted the Federal and State constitutions, and placed a military dictator at the head of the Government.

By a sweeping decree of a Congress subservient to the will of the dictator, the several State constitutions were abolished, and the States themselves converted into mere departments of the central Government. The people of Texas were unwilling to submit to this usurpation. Resistance to such tyranny became a high duty. Texas was fully absolved from all allegiance to the central Government of Mexico from the moment that Government had abolished her State constitution, and in its place substituted an arbitrary and despotic central Government.

Such were the principal causes of the Texan revolution. The people of Texas at once determined upon resistance, and flew to arms. In the midst of these important and exciting events, however, they did not omit to place their liberties upon a secure and permanent foundation. They elected members to a convention, who, in the month of March, 1836, issued a formal declaration that their "political connexion with the Mexican nation has forever ended, and that the people of Texas do now constitute a FREE, SOVEREIGN, and INDEPENDENT REPUBLIC, and are fully invested with all the rights and attributes which properly belong to independent nations." They also adopted for their government a liberal republican constitution. About the same time, Santa Anna, then the dictator of Mexico, invaded Texas with a numerous army, for the purpose of subduing her people, and enforcing obedience to his arbitrary and despotic government. On the twenty-first of April, 1836, he was met by the Texan citizen soldiers, and on that day was achieved by them the memorable victory of San Jacinto, by which they conquered their independence. Considering the numbers engaged on the respective sides, history does not record a more brilliant achievement. Santa Anna himself was among the captives.

In the month of May, 1836, Santa Anna acknowledged, by a treaty with the Texan authorities, in the most solemn form, "the full, entire, and perfect independence of the republic of Texas." It is true, he was then a prisoner of war, but it is equally true that he had failed to reconquer Texas, and had met with signal defeat; that his authority had not been revoked, and

that by virtue of this treaty he obtained his personal release. By it hostilities were suspended, and the army which had invaded Texas under his command returned, in pursuance of this arrangement, unmolested, to Mexico.

From the day that the battle of San Jacinto was fought until the present hour, Mexico has never possessed the power to reconquer Texas. In the language of the Secretary of State of the United States, in a despatch to our Minister in Mexico, under date of the eighth of July, 1842, "Mexico may have chosen to consider, and may still choose to consider Texas as having been at all times since 1835, and as still continuing, a rebellious province; but the world has been obliged to take a very different view of the matter. From the time of the battle of San Jacinto, in April, 1836, to the present moment, Texas has exhibited the same external signs of national independence as Mexico herself, and with quite as much stability of Government. Practically free and independent, acknowledged as a political sovereignty by the principal Powers of the world, no hostile foot finding rest within her territory for six or seven years, and Mexico herself refraining for all that period from any further attempt to re-establish her own authority over that territory, it cannot but be surprising to find Mr. de Bocanegra" (the Secretary of Foreign Affairs of Mexico) "complaining that for that whole period citizens of the United States, or its Government, have been favoring the rebels of Texas, and supplying them with vessels, ammunition, and money, as if the war for the reduction of the province of Texas had been constantly prosecuted by Mexico, and her success prevented by these influences from abroad." In the same despatch, the Secretary of State affirms that "since 1837, the United States have regarded Texas as an independent sovereignty, as much as Mexico; and that trade and commerce with citizens of a Government at war with Mexico cannot, on that account, be regarded as an intercourse by which assistance and succor are given to Mexican rebels. The whole current of Mr. de Bocanegra's remarks runs in the same direction, as if the independence of Texas had not been acknowledged. It has been acknowledged—it was acknowledged in 1837, against the remonstrance and protest of Mexico; and most of the acts, of any importance, of which Mr. de Bocanegra complains, flow necessarily from that recognition. He speaks of Texas as still being 'an integral part of the territory of the Mexican Republic;' but he cannot but understand that the United States do not so regard it. The real complaint of Mexico, therefore, is, in substance, neither more nor less than a complaint against the recognition of Texan independence. It may be thought rather late to repeat that complaint, and not quite just to confine it to the United States, to the exemption of England, France, and Belgium, unless the United States, having been the first to acknowledge the independence of Mexico herself, are to be blamed for setting an example for the recognition of that of Texas." And he added, that "the Constitution, public treaties, and the laws, obliged the President to regard Texas as an independent State, and its territory as no part of the territory of Mexico." Texas had been an independent State, with an organized Government, defying the power of Mexico to overthrow or reconquer her, for more than ten years before Mexico commenced the present war against the United States. Texas had given such evidence to the world of her ability to maintain her separate existence as an independent nation, that she had been formally recognised as such, not only by the United States, but by several of the principal Powers of Europe. These powers had entered into treaties of amity, com-

merce and navigation with her. They had received and accredited her ministers, and other diplomatic agents at their respective courts; and they had commissioned ministers and diplomatic agents on their part to the Government of Texas. If Mexico, notwithstanding all this, and her utter inability to subdue or reconquer Texas, still stubbornly refused to recognise her as an independent nation, she was none the less so on that account. Mexico herself had been recognised as an independent nation by the United States, and by other Powers, many years before Spain, of which, before her revolution, she had been a colony, would agree to recognise her as such; and yet Mexico was at that time, in the estimation of the civilized world, and in fact, none the less an independent power because Spain still claimed her as a colony. If Spain had continued until the present period to assert that Mexico was one of her colonies, in rebellion against her, this would not have made her so, or changed the fact of her independent existence. Texas, at the period of her annexation to the United States, bore the same relation to Mexico that Mexico had borne to Spain for many years before Spain acknowledged her independence, with this important difference—that, before the annexation of Texas to the United States was consummated, Mexico herself, by a formal act of her Government, had acknowledged the independence of Texas as a nation. It is true, that in the act of recognition she prescribed a condition, which she had no power or authority to impose, that Texas should not annex herself to any other Power; but this could not detract in any degree from the recognition which Mexico then made of her actual independence. Upon this plain statement of facts, it is absurd for Mexico to allege, as a pretext for commencing hostilities against the United States, that Texas is still a part of her territory.

But there are those who, conceding all this to be true, assume the ground that the true western boundary of Texas is the Nueces, instead of the Rio Grande; and that, therefore, in marching our army to the east bank of the latter river, we passed the Texan line, and invaded the territory of Mexico. A simple statement of facts, known to exist, will conclusively refute such an assumption. Texas, as ceded to the United States by France in 1803, has been always claimed as extending west to the Rio Grande, or Rio Bravo. This fact is established by the authority of our most eminent statesmen at a period when the question was as well, if not better understood, than it is at present. During Mr. Jefferson's administration, Messrs. Monroe and Pinckney, who had been sent on a special mission to Madrid, charged, among other things, with the adjustment of boundary between the two countries, in a note addressed to the Spanish Minister of Foreign Affairs, under date of the twenty-eighth of January, 1805, assert that the boundaries of Louisiana, as ceded to the United States by France, "are the river Perdido on the east, and the river Bravo on the west;" and they add, that "the facts and principles which justify this conclusion are so satisfactory to our government as to convince it that the United States have not a better right to the island of New Orleans, under the cession referred to, than they have to the whole district of territory which is above described."

Down to the conclusion of the Florida treaty, in February, 1819, by which this territory was ceded to Spain, the United States asserted and maintained their territorial rights to this extent. In the month of June, 1818, during Mr. Monroe's administration, information having been received that a number of foreign adventurers had landed at Galveston, with the avowed purpose

of forming a settlement in that vicinity, a special messenger was despatched by the Government of the United States, with instructions from the Secretary of State to warn them to desist, should they be found there "or in any other place north of the Rio Bravo, and within the territory claimed by the United States." He was instructed, should they be found in the country north of that river, to make known to them "the surprise with which the President has seen possession thus taken, without authority from the United States, of a place within their territorial limits, and upon which no lawful settlement can be made without their sanction." He was instructed to call upon them to "avow under what national authority they profess to act," and to give them due warning "that the place is within the United States, who will suffer no permanent settlement to be made there, under any authority other than their own." As late as the eighth of July, 1842, the Secretary of State of the United States, in a note addressed to our minister in Mexico, maintains that, by the Florida treaty of 1819, the territory as far west as the Rio Grande was confirmed to Spain. In that note he states that, "by the treaty of the twenty-second of February, 1819, between the United States and Spain, the Sabine was adopted as the line of boundary between the two Powers. Up to that period, no considerable colonization had been effected in Texas; but the territory between the Sabine and the Rio Grande being confirmed to Spain by the treaty, applications were made to that Power for grants of land; and such grants, or permissions of settlement, were in fact made by the Spanish authorities in favor of citizens of the United States proposing to emigrate to Texas in numerous families, before the declaration of independence by Mexico."

The Texas which was ceded to Spain by the Florida treaty of 1819 embraced all the country now claimed by the State of Texas between the Nueces and the Rio Grande. The republic of Texas always claimed this river as her western boundary, and in her treaty made with Santa Anna in May, 1836, he recognized it as such. By the constitution which Texas adopted in March, 1836, senatorial and representative districts were organized extending west of the Nueces. The Congress of Texas, on the nineteenth of December, 1836, passed "An act to define the boundaries of the republic of Texas," in which they declared the Rio Grande from its mouth to its source to be their boundary, and by the said act they extended their "civil and political jurisdiction" over the country up to that boundary. During a period of more than nine years, which intervened between the adoption of her constitution and her annexation as one of the States of our Union, Texas asserted and exercised many acts of sovereignty and jurisdiction over the territory and inhabitants west of the Nueces. She organized and defined the limits of counties extending to the Rio Grande. She established courts of justice and extended her judicial system over the territory. She established a custom-house, and collected duties, and also [established] post offices and post roads, in it. She established a land office, and issued numerous grants for land, within its limits. A Senator and a Representative residing in it were elected to the Congress of the republic, and served as such before the act of annexation took place. In both the Congress and Convention of Texas, which gave their assent to the terms of annexation to the United States, proposed by our Congress, were representatives residing west of the Nueces, who took part in the act of annexation itself. This was the Texas which, by the act of our Congress of the twenty-ninth of December,

1845, was admitted as one of the States of our Union. That the Congress of the United States understood the State of Texas which they admitted into the Union to extend beyond the Nueces is apparent from the fact that on the thirty-first day of December, 1845, only two days after the act of admission, they passed a law "to establish a collection district in the State of Texas," by which they created a port of delivery at Corpus Christi, situated west of the Nueces, and being the same point at which the Texas custom-house, under the laws of that republic, had been located, and directed that a surveyor to collect the revenue should be appointed for that port by the President, by and with the advice and consent of the Senate. A surveyor was accordingly nominated, and confirmed by the Senate, and has been ever since in the performance of his duties. All these acts of the republic of Texas, and of our Congress, preceded the orders for the advance of our army to the east bank of the Rio Grande. Subsequently, Congress passed an act "establishing certain post routes," extending west of the Nueces. The country west of that river now constitutes a part of one of the Congressional districts of Texas, and is represented in the House of Representatives. The Senators from that State were chosen by a legislature in which the country west of that river was represented. In view of all these facts, it is difficult to conceive upon what ground it can be maintained that, in occupying the country west of the Nueces with our army, with a view solely to its security and defence, we invaded the territory of Mexico. But it would have been still more difficult to justify the Executive, whose duty it is to see that the laws be faithfully executed, if in the face of all these proceedings, both of the Congress of Texas and of the United States, he had assumed the responsibility of yielding up the territory west of the Nueces to Mexico, or of refusing to protect and defend this territory and its inhabitants, including Corpus Christi, as well as the remainder of Texas, against the threatened Mexican invasion.

But Mexico herself has never placed the war which she has waged upon the ground that our army occupied the intermediate territory between the Nueces and the Rio Grande. Her refuted pretension that Texas was not in fact an independent State, but a rebellious province, was obstinately persevered in; and her avowed purpose in commencing a war with the United States was to reconquer Texas, and to restore Mexican authority over the whole territory—not to the Nueces only, but to the Sabine. In view of the proclaimed menaces of Mexico to this effect, I deemed it my duty, as a measure of precaution and defence, to order our army to occupy a position on our frontier as a military post, from which our troops could best resist and repel any attempted invasion which Mexico might make.

Our army had occupied a position at Corpus Christi, west of the Nueces, as early as August, 1845, without complaint from any quarter. Had the Nueces been regarded as the true western boundary of Texas, that boundary had been passed by our army many months before it advanced to the eastern bank of the Rio Grande. In my annual message of December last I informed Congress, that, upon the invitation of both the Congress and Convention of Texas, I had deemed it proper to order a strong squadron to the coasts of Mexico, and to concentrate an efficient military force on the western frontier of Texas, to protect and defend the inhabitants against the menaced invasion of Mexico. In that message I informed Congress that the moment the terms of annexation offered by the United States were accepted by Texas, the

latter became so far a part of our own country as to make it our duty to afford such protection and defence; and that for that purpose our squadron had been ordered to the Gulf, and our army to "take a position between the Nueces and the Del Norte," or Rio Grande, and "to repel any invasion of the Texan territory which might be attempted by the Mexican forces."

It was deemed proper to issue this order, because, soon after the President of Texas, in April, 1845, had issued his proclamation convening the Congress of that republic, for the purpose of submitting to that body the terms of annexation proposed by the United States, the government of Mexico made serious threats of invading the Texan territory. These threats became more imposing as it became more apparent, in the progress of the question, that the people of Texas would decide in favor of accepting the terms of annexation; and, finally, they had assumed such a formidable character as induced both the Congress and Convention of Texas to request that a military force should be sent by the United States into her territory for the purpose of protecting and defending her against the threatened invasion. It would have been a violation of good faith towards the people of Texas to have refused to afford the aid which they desired against a threatened invasion, to which they had been exposed by their free determination to annex themselves to our Union, in compliance with the overture made to them by the joint resolution of our Congress.

Accordingly, a portion of the army was ordered to advance into Texas. Corpus Christi was the position selected by General Taylor. He encamped at that place in August, 1845, and the army remained in that position until the eleventh of March, 1846, when it moved westward, and on the twenty-eighth of that month reached the east bank of the Rio Grande, opposite to Matamoras. This movement was made in pursuance of orders from the War Department, issued on the thirteenth of January, 1846. Before these orders were issued, the despatch of our minister in Mexico, transmitting the decision of the Council of Government of Mexico, advising that he should not be received, and also the despatch of our consul residing in the city of Mexico—the former bearing date on the seventeenth, and the latter on the eighteenth of December, 1845, copies of both of which accompanied my message to Congress on the eleventh of May last—were received at the Department of State. These communications rendered it highly probable, if not absolutely certain, that our minister would not be received by the government of General Herrera. It was also well known that but little hope could be entertained of a different result from General Paredes in case the revolutionary movement which he was prosecuting should prove successful, as was highly probable. The partisans of Paredes, as our minister, in the despatch referred to, states, breathed the fiercest hostility against the United States, denounced the proposed negotiation as treason, and openly called upon the troops and the people to put down the government of Herrera by force. The reconquest of Texas, and war with the United States, were openly threatened. These were the circumstances existing, when it was deemed proper to order the army under the command of General Taylor to advance to the western frontier of Texas, and occupy a position on or near the Rio Grande.

The apprehensions of a contemplated Mexican invasion have been since fully justified by the event. The determination of Mexico to rush into hostilities with the United States was afterwards manifested from the whole

tenor of the note of the Mexican Minister of Foreign Affairs to our minister, bearing date on the twelfth of March, 1846. Paredes had then revolutionized the government, and his minister, after referring to the resolution for the annexation of Texas, which had been adopted by our Congress in March, 1845, proceeds to declare that "a fact such as this, or, to speak with greater exactness, so notable an act of usurpation, created an imperious necessity that Mexico, for her own honor, should repel it with proper firmness and dignity. The Supreme Government had beforehand declared that it would look upon such an act as a *casus belli*; and, as a consequence of this declaration, negotiation was, by its very nature, at an end, and war was the only recourse of the Mexican government."

It appears, also, that on the fourth of April following, General Paredes, through his minister of war, issued orders to the Mexican general in command on the Texan frontier to "attack" our army "by every means which war permits." To this General Paredes had been pledged to the army and people of Mexico during the military revolution which had brought him into power. On the eighteenth of April, 1846, General Paredes addressed a letter to the commander on that frontier, in which he stated to him, "At the present date I suppose you at the head of that valiant army, either fighting already, or preparing for the operations of a campaign;" and "supposing you already on the theatre of operations, and with all the forces assembled, it is indispensable that hostilities be commenced, yourself taking the initiative against the enemy."

The movement of our army to the Rio Grande was made by the commanding general under positive orders to abstain from all aggressive acts towards Mexico, or Mexican citizens, and to regard the relations between the two countries as peaceful, unless Mexico should declare war, or commit acts of hostility indicative of a state of war; and these orders he faithfully executed. Whilst occupying his position on the east bank of the Rio Grande, within the limits of Texas, then recently admitted as one of the States of our Union, the commanding general of the Mexican forces, who, in pursuance of the orders of his government, had collected a large army on the opposite shore of the Rio Grande, crossed the river, invaded our territory, and commenced hostilities by attacking our forces.

Thus, after all the injuries which we had received and borne from Mexico, and after she had insultingly rejected a minister sent to her on a mission of peace, and whom she had solemnly agreed to receive, she consummated her long course of outrage against our country by commencing an offensive war and shedding the blood of our citizens on our own soil.

The United States never attempted to acquire Texas by conquest. On the contrary, at an early period after the people of Texas had achieved their independence, they sought to be annexed to the United States. At a general election in September, 1836, they decided with great unanimity in favor of "annexation;" and in November following, the Congress of the republic authorized the appointment of a minister, to bear their request to this government. This government, however, having remained neutral between Texas and Mexico during the war between them, and considering it due to the honor of our country, and our fair fame among the nations of the earth, that we should not at this early period consent to annexation, nor until it should be manifest to the whole world that the reconquest of Texas by Mexico was impossible, refused to accede to the overtures made by Texas.

On the twelfth of April, 1844, and after more than seven years had elapsed since Texas had established her independence, a treaty was concluded for the annexation of that republic to the United States, which was rejected by the Senate. Finally, on the first of March, 1845, Congress passed a joint resolution for annexing her to the United States, upon certain preliminary conditions to which her assent was required. The solemnities which characterised the deliberation and conduct of the government and people of Texas, on the deeply interesting questions presented by these resolutions, are known to the world. The Congress, the Executive, and the people of Texas, in a convention elected for that purpose, accepted with great unanimity the proposed terms of annexation; and thus consummated upon her part the great act of restoring to our federal Union a vast territory which had been ceded to Spain by the Florida treaty more than a quarter of a century before.

After the joint resolution for the annexation of Texas to the United States had been passed by our Congress, the Mexican minister at Washington addressed a note to the Secretary of State, bearing date on the sixth of March, 1845, protesting against it as "an act of aggression, the most unjust which can be found recorded in the annals of modern history; namely, that of despoiling a friendly nation, like Mexico, of a considerable portion of her territory;" and protesting against the resolution of annexation, as being an act "whereby the province of Texas, an integral portion of the Mexican territory, is agreed and admitted into the American Union;" and he announced that, as a consequence, his mission to the United States had terminated, and demanded his passports, which were granted. It was upon the absurd pretext, made by Mexico, (herself indebted for her independence to a successful revolution,) that the republic of Texas still continued to be, notwithstanding all that had passed, a province of Mexico, that this step was taken by the Mexican minister.

Every honorable effort has been used by me to avoid the war which followed, but all have proved vain. All our attempts to preserve peace have been met by insult and resistance on the part of Mexico. My efforts to this end commenced in the note of the Secretary of State of the tenth of March, 1845, in answer to that of the Mexican minister. Whilst declining to reopen a discussion which had already been exhausted, and proving again what was known to the whole world, that Texas had long since achieved her independence, the Secretary of State expressed the regret of this government that Mexico should have taken offence at the resolution of annexation passed by Congress, and gave assurance that our "most strenuous efforts shall be devoted to the amicable adjustment of every cause of complaint between the two governments, and to the cultivation of the kindest and most friendly relations between the sister republics."

That I have acted in the spirit of this assurance, will appear from the events which have since occurred. Notwithstanding Mexico had abruptly terminated all diplomatic intercourse with the United States, and ought, therefore, to have been the first to ask for its resumption, yet, waiving all ceremony, I embraced the earliest favorable opportunity to "ascertain from the Mexican government whether they would receive an envoy from the United States, intrusted with full power to adjust all the questions in dispute between the two governments." In September, 1845, I believed the propitious moment for such an overture had arrived. Texas, by the enthusiastic and almost unanimous will of the people, had pronounced in favor of

annexation. Mexico herself had agreed to acknowledge the independence of Texas, subject to a condition, it is true, which she had no right to impose, and no power to enforce. The last lingering hope of Mexico, if she still had retained any, that Texas would ever again become one of her provinces, must have been abandoned.

The consul of the United States at the city of Mexico was, therefore, instructed by the Secretary of State, on the fifteenth of September, 1845, to make the inquiry of the Mexican government. The inquiry was made, and on the fifteenth of October, 1845, the Minister of Foreign Affairs of the Mexican government, in a note addressed to our consul, gave a favorable response, requesting, at the same time, that our naval force might be withdrawn from Vera Cruz while negotiations should be pending. Upon receipt of this note, our naval force was promptly withdrawn from Vera Cruz. A minister was immediately appointed, and departed to Mexico. Everything bore a promising aspect for a speedy and peaceful adjustment of all our difficulties. At the date of my annual message to Congress, in December last, no doubt was entertained but that he would be received by the Mexican government, and the hope was cherished that all cause of misunderstanding between the two countries would be speedily removed. In the confident hope that such would be the result of his mission, I informed Congress that I forbore at that time to "recommend such ulterior measures of redress for the wrongs and injuries we had so long borne, as it would have been proper to make had no such negotiation been instituted." To my surprise and regret, the Mexican government, though solemnly pledged to do so, upon the arrival of our minister in Mexico, refused to receive and accredit him. When he reached Vera Cruz, on the thirtieth of November, 1845, he found that the aspect of affairs had undergone an unhappy change. The government of General Herrera, who was at that time President of the republic, was tottering to its fall. General Paredes (a military leader) had manifested his determination to overthrow the government of Herrera, by a military revolution; and one of the principal means which he employed to effect his purpose, and render the government of Herrera odious to the army and people of Mexico, was by loudly condemning its determination to receive a minister of peace from the United States, alleging that it was the intention of Herrera, by a treaty with the United States, to dismember the territory of Mexico, by ceding away the department of Texas. The government of Herrera is believed to have been well disposed to a pacific adjustment of existing difficulties; but, probably alarmed for its own security, and in order to ward off the danger of the revolution led by Paredes, violated its solemn agreement, and refused to receive or accredit our minister; and this, although informed that he had been invested with full power to adjust all questions in dispute between the two governments. Among the frivolous pretexts for this refusal, the principal one was, that our minister had not gone upon a special mission, confined to the question of Texas alone, leaving all the outrages upon our flag and our citizens unredressed. The Mexican government well knew that both our national honor and the protection due to our citizens imperatively required that the two questions of boundary and indemnity should be treated of together, as naturally and inseparably blended, and they ought to have seen that this course was best calculated to enable the United States to extend to them the most liberal justice. On the thirtieth of December, 1845, General Herrera resigned the presidency, and yielded up

the government to General Paredes without a struggle. Thus a revolution was accomplished solely by the army commanded by Paredes, and the supreme power in Mexico passed into the hands of a military usurper, who was known to be bitterly hostile to the United States.

Although the prospect of a pacific adjustment with the new government was unpromising, from the known hostility of its head to the United States, yet, determined that nothing should be left undone on our part to restore friendly relations between the two countries, our minister was instructed to present his credentials to the new government, and ask to be accredited by it in the diplomatic character in which he had been commissioned. These instructions he executed by his note of the first of March, 1846, addressed to the Mexican Minister of Foreign Affairs; but his request was insultingly refused by that minister, in his answer of the twelfth of the same month. No alternative remained for our minister but to demand his passports, and return to the United States.

Thus was the extraordinary spectacle presented to the civilized world, of a government, in violation of its own express agreement, having twice rejected a minister of peace, invested with full powers to adjust all the existing differences between the two countries, in a manner just and honorable to both. I am not aware that modern history presents a parallel case, in which, in time of peace, one nation has refused even to hear propositions from another for terminating existing difficulties between them.

Scarcely a hope of adjusting our difficulties, even at a remote day, or of preserving peace with Mexico, could be cherished while Paredes remained at the head of the government. He had acquired the supreme power by a military revolution, and upon the most solemn pledges to wage war against the United States, and to reconquer Texas, which he claimed as a revolted province of Mexico. He had denounced as guilty of treason all those Mexicans who considered Texas as no longer constituting a part of the territory of Mexico, and who were friendly to the cause of peace. The duration of the war which he waged against the United States was indefinite, because the end which he proposed, of the reconquest of Texas, was hopeless. Besides, there was good reason to believe, from all his conduct, that it was his intention to convert the republic of Mexico into a monarchy, and to call a foreign European prince to the throne. Preparatory to this end, he had, during his short rule, destroyed the liberty of the press, tolerating that portion of it only which openly advocated the establishment of a monarchy. The better to secure the success of his ultimate designs, he had, by an arbitrary decree, convoked a Congress—not to be elected by the free voice of the people, but to be chosen in a manner to make them subservient to his will, and to give him absolute control over their deliberations.

Under all these circumstances, it was believed that any revolution in Mexico, founded upon opposition to the ambitious projects of Paredes, would tend to promote the cause of peace, as well as prevent any attempted European interference in the affairs of the North American continent—both objects of deep interest to the United States. Any such foreign interference, if attempted, must have been resisted by the United States. My views upon that subject were fully communicated to Congress in my last annual Message. In any event, it was certain that no change whatever in the Government of Mexico, which would deprive Paredes of power, could be for the worse, so far as the United States were concerned, while it was

highly probable that any change must be for the better. This was the state of affairs existing when Congress, on the thirteenth of May last, recognised the existence of the war which had been commenced by the Government of Paredes; and it became an object of much importance, with a view to a speedy settlement of our difficulties, and the restoration of an honorable peace, that Paredes should not retain power in Mexico.

Before that time there were symptoms of a revolution in Mexico, favored, as it was understood to be, by the more liberal party, and especially by those who were opposed to foreign interference and to the monarchical form of government. Santa Anna was then in exile in Havana, having been expelled from power and banished from his country by a revolution which occurred in December, 1844; but it was known that he had still a considerable party in his favor in Mexico. It was also equally well known that no vigilance which could be exerted by our squadron would, in all probability, have prevented him from effecting a landing somewhere on the extensive gulf coast of Mexico, if he desired to return to his country. He had openly professed an entire change of policy; had expressed his regret that he had subverted the federal constitution of 1824, and avowed that he was now in favor of its restoration. He had publicly declared his hostility, in the strongest terms, to the establishment of a monarchy, and to European interference in the affairs of his country.

Information to this effect had been received, from sources believed to be reliable, at the date of the recognition of the existence of the war by Congress, and was afterwards fully confirmed by the receipt of the despatch of our consul in the city of Mexico, with the accompanying documents, which are herewith transmitted. Besides, it was reasonable to suppose that he must see the ruinous consequences to Mexico of a war with the United States, and that it would be his interest to favor peace.

It was under these circumstances and upon these considerations that it was deemed expedient not to obstruct his return to Mexico, should he attempt to do so. Our object was the restoration of peace; and, with that view, no reason was perceived why we should take part with Paredes, and aid him, by means of our blockade, in preventing the return of his rival to Mexico. On the contrary, it was believed that the intestine divisions which ordinary sagacity could not but anticipate as the fruit of Santa Anna's return to Mexico, and his contest with Paredes, might strongly tend to produce a disposition with both parties to restore and preserve peace with the United States. Paredes was a soldier by profession, and a monarchist in principle. He had but recently before been successful in a military revolution, by which he had obtained power. He was the sworn enemy of the United States, with which he had involved his country in the existing war. Santa Anna had been expelled from power by the army; was known to be in open hostility to Paredes, and publicly pledged against foreign intervention and the restoration of monarchy in Mexico. In view of these facts and circumstances it was, that, when orders were issued to the commander of our naval forces in the Gulf, on the thirteenth day of May last, the same day on which the existence of the war was recognised by Congress, to place the coasts of Mexico under blockade, he was directed not to obstruct the passage of Santa Anna to Mexico, should he attempt to return.

A revolution took place in Mexico in the early part of August following, by which the power of Paredes was overthrown, and he has since been

banished from the country, and is now in exile. Shortly afterwards Santa Anna returned. It remains to be seen whether his return may not yet prove to be favorable to a pacific adjustment of the existing difficulties, it being manifestly his interest not to persevere in the prosecution of a war commenced by Paredes, to accomplish a purpose so absurd as the reconquest of Texas to the Sabine. Had Paredes remained in power, it is morally certain that any pacific adjustment would have been hopeless.

Upon the commencement of hostilities by Mexico against the United States, the indignant spirit of the nation was at once aroused. Congress promptly responded to the expectations of the country, and, by the act of the thirteenth of May last, recognised the fact that war existed, by the act of Mexico, between the United States and that republic, and granted the means necessary for its vigorous prosecution. Being involved in a war thus commenced by Mexico, and for the justice of which on our part we may confidently appeal to the whole world, I resolved to prosecute it with the utmost vigor. Accordingly, the ports of Mexico on the Gulf and on the Pacific have been placed under blockade, and her territory invaded at several important points. The reports from the Departments of War and the Navy will inform you more in detail of the measures adopted in the emergency in which our country was placed, and of the gratifying results which have been accomplished.

The various columns of the army have performed their duty, under great disadvantages, with the most distinguished skill and courage. The victories of Palo Alto and Resaca de la Palma, and of Monterey, won against greatly superior numbers, and against most decided advantages in other respects on the part of the enemy, were brilliant in their execution, and entitle our brave officers and soldiers to the grateful thanks of their country. The nation deplores the loss of the brave officers and men who have gallantly fallen while vindicating and defending their country's rights and honor.

It is a subject of pride and satisfaction that our volunteer citizen soldiers, who so promptly responded to their country's call, with an experience of the discipline of a camp of only a few weeks, have borne their part in the hard-fought battle of Monterey with a constancy and courage equal to that of veteran troops, and worthy of the highest admiration. The privations of long marches through the enemy's country, and through a wilderness, have been borne without a murmur. By rapid movements the province of New Mexico, with Santa Fé, its capital, has been captured without bloodshed. The navy has coöperated with the army, and rendered important services: if not so brilliant, it is because the enemy had no force to meet them on their own element, and because of the defences which nature has interposed in the difficulties of the navigation on the Mexican coast. Our squadron in the Pacific, with the coöperation of a gallant officer of the army, and a small force hastily collected in that distant country, have acquired bloodless possession of the Californias, and the American flag has been raised at every important point in that province.

I congratulate you on the success which has thus attended our military and naval operations. In less than seven months after Mexico commenced hostilities, at a time selected by herself, we have taken possession of many of her principal ports, driven back and pursued her invading army, and acquired military possession of the Mexican provinces of New Mexico, New Leon, Coahuila, Tamaulipas, and the Californias, a territory larger in extent

than that embraced in the original thirteen States of the Union, inhabited by a considerable population, and much of it more than a thousand miles from the points at which we had to collect our forces and commence our movements. By the blockade, the import and export trade of the enemy has been cut off. Well may the American people be proud of the energy and gallantry of our regular and volunteer officers and soldiers. The events of these few months afford a gratifying proof that our country can, under any emergency, confidently rely for the maintenance of her honor, and the defence of her rights, on an effective force, ready at all times voluntarily to relinquish the comforts of home for the perils and privations of the camp. And though such a force may be for the time expensive, it is in the end economical, as the ability to command it removes the necessity of employing a large standing army in time of peace, and proves that our people love their institutions, and are ever ready to defend and protect them.

Whilst the war was in a course of vigorous and successful prosecution, being still anxious to arrest its evils, and considering that after the brilliant victories of our arms on the eighth and ninth of May last, the national honor could not be compromitted by it, another overture was made to Mexico, by my direction, on the twenty-seventh of July last, to terminate hostilities by a peace just and honorable to both countries. On the thirty-first of August following, the Mexican Government declined to accept this friendly overture, but referred it to the decision of a Mexican Congress, to be assembled in the early part of the present month. I communicate to you, herewith, a copy of the letter of the Secretary of State proposing to reopen negotiations, of the answer of the Mexican Government, and the reply thereto of the Secretary of State.

The war will continue to be prosecuted with vigor, as the best means of securing peace. It is hoped that the decision of the Mexican Congress, to which our last overture has been referred, may result in a speedy and honorable peace. With our experience, however, of the unreasonable course of the Mexican authorities, it is the part of wisdom not to relax in the energy of our military operations until the result is made known. In this view, it is deemed important to hold military possession of all the provinces which have been taken, until a definitive treaty of peace shall have been concluded and ratified by the two countries.

The war has not been waged with a view to conquest; but having been commenced by Mexico, it has been carried into the enemy's country, and will be vigorously prosecuted there, with a view to obtain an honorable peace, and thereby secure ample indemnity for the expenses of the war, as well as to our much-injured citizens, who hold large pecuniary demands against Mexico.

By the laws of nations, a conquered territory is subject to be governed by the conqueror during his military possession, and until there is either a treaty of peace, or he shall voluntarily withdraw from it. The old civil government being necessarily superseded, it is the right and duty of the conqueror to secure his conquest, and to provide for the maintenance of civil order and the rights of the inhabitants. This right has been exercised, and this duty performed, by our military and naval commanders, by the establishment of temporary governments in some of the conquered provinces in Mexico, assimilating them, as far as practicable, to the free institutions of our own country. In the provinces of New Mexico, and of the Californias,

little, if any, further resistance is apprehended from the inhabitants to the temporary governments which have thus, from the necessity of the case, and according to the laws of war, been established. It may be proper to provide for the security of these important conquests by making an adequate appropriation for the purpose of erecting fortifications and defraying the expenses necessarily incident to the maintenance of our possession and authority over them.

Near the close of your last session, for reasons communicated to Congress, I deemed it important, as a measure for securing a speedy peace with Mexico, that a sum of money should be appropriated, and placed in the power of the Executive, similar to that which had been made upon two former occasions, during the administration of President Jefferson.

On the twenty-sixth of February, 1803, an appropriation of two millions of dollars was made, and placed at the disposal of the President. Its object is well known. It was at that time in contemplation to acquire Louisiana from France, and it was intended to be applied as a part of the consideration which might be paid for that territory. On the thirteenth of February, 1806, the same sum was in like manner appropriated, with a view to the purchase of the Floridas from Spain. These appropriations were made to facilitate negotiations, and as a means to enable the President to accomplish the important objects in view. Though it did not become necessary for the President to use these appropriations, yet a state of things might have arisen in which it would have been highly important for him to do so, and the wisdom of making them cannot be doubted. It is believed that the measure recommended at your last session met with the approbation of decided majorities in both Houses of Congress. Indeed, in different forms, a bill making an appropriation of two millions of dollars passed each House, and it is much to be regretted that it did not become a law. The reasons which induced me to recommend the measure at that time still exist; and I again submit the subject for your consideration, and suggest the importance of early action upon it. Should the appropriation be made, and be not needed, it will remain in the treasury: should it be deemed proper to apply it, in whole or in part, it will be accounted for as other public expenditures.

Immediately after Congress had recognised the existence of the war with Mexico, my attention was directed to the danger that privateers might be fitted out in the ports of Cuba and Porto Rico, to prey upon the commerce of the United States; and I invited the special attention of the Spanish Government to the fourteenth article of our treaty with that Power, of the twentieth of October, 1795, under which the citizens and subjects of either nation who shall take commissions or letters of marque to act as privateers against the other "shall be punished as pirates."

It affords me pleasure to inform you that I have received assurances from the Spanish Government that this article of the treaty shall be faithfully observed on its part. Orders for this purpose were immediately transmitted from that Government to the authorities of Cuba and Porto Rico to exert their utmost vigilance in preventing any attempts to fit out privateers in those islands against the United States. From the good faith of Spain, I am fully satisfied that this treaty will be executed in its spirit as well as its letter; whilst the United States will, on their part, faithfully perform all the obligations which it imposes on them.

Information has been recently received at the Department of State that

the Mexican Government has sent to Havana blank commissions to privateers, and blank certificates of naturalization, signed by General Salas, the present head of the Mexican Government. There is, also, reason to apprehend that similar documents have been transmitted to other parts of the world. Copies of these papers, in translation, are herewith transmitted.

As the preliminaries required by the practice of civilized nations for commissioning privateers and regulating their conduct appear not to have been observed, and as these commissions are in blank, to be filled up with the names of citizens and subjects of all nations who may be willing to purchase them, the whole proceeding can only be construed as an invitation to all the freebooters upon earth, who are willing to pay for the privilege, to cruise against American commerce. It will be for our courts of justice to decide whether, under such circumstances, these Mexican letters of marque and reprisal shall protect those who accept them, and commit robberies upon the high seas under their authority, from the pains and penalties of piracy.

If the certificates of naturalization thus granted be intended by Mexico to shield Spanish subjects from the guilt and punishment of pirates, under our treaty with Spain, they will certainly prove unavailing. Such a subterfuge would be but a weak device to defeat the provisions of a solemn treaty.

I recommend that Congress should immediately provide by law for the trial and punishment as pirates of Spanish subjects who, escaping the vigilance of their Government, shall be found guilty of privateering against the United States. I do not apprehend serious danger from these privateers. Our navy will be constantly on the alert to protect our commerce. Besides, in case prizes should be made of American vessels, the utmost vigilance will be exerted by our blockading squadron to prevent the captors from taking them into Mexican ports, and it is not apprehended that any nation will violate its neutrality by suffering such prizes to be condemned and sold within its jurisdiction.

I recommend that Congress should immediately provide by law for granting letters of marque and reprisal against vessels under the Mexican flag. It is true that there are but few, if any, commercial vessels of Mexico upon the high seas; and it is, therefore, not probable that many American privateers would be fitted out, in case a law should pass authorizing this mode of warfare. It is, notwithstanding, certain that such privateers may render good service to the commercial interests of the country, by recapturing our merchant ships, should any be taken by armed vessels under the Mexican flag, as well as by capturing these vessels themselves. Every means within our power should be rendered available for the protection of our commerce.

TO MR. BANCROFT.¹

(No. 5.)

DEPARTMENT OF STATE,

WASHINGTON, 10th Decr., 1846.

SIR: I have the honor to transmit to you, herewith, at the instance of the Honble. D. P. King, of the House of Representatives U. S. certain original and other documents from the files of this office, relating to the cases of the American fishing schooners, "Director," E. Haskell, master, and "Pallas," Job Dennen, master,—both of Rockport, Massachusetts. These vessels were seized in the Gulf of the St. Lawrence, in the autumn of 1840, by the British revenue cutter "John and Louisa Wallace," Stephens, master, for an alleged trespass upon British fishing grounds—carried into Nova Scotian ports, and ultimately, under circumstances set forth in the accompanying papers, wholly lost to their owners.

An examination of the records of the United States Legation in London, for some years past, will shew you that cases of a similar character have not unfrequently occurred heretofore, and have formed the subject of complaints to the British Government. It will also shew you the result of these applications in behalf of the owners and others interested in American vessels engaged in the fisheries, thus vexatiously seized by the British Provincial Authorities.

If, after a careful perusal and consideration of the correspondence referred to, and of the documents now sent, you shall be of opinion that the cases of the "Director" and "Pallas," or either of them, might now, under all the circumstances, be presented to the British Government with a reasonable hope of a satisfactory decision on its part, you are authorized to invite Lord Palmerston's attention to them in such terms as you may judge best calculated to secure the ends of justice.

I am, Sir, very respectfully, Your obedient servant,

JAMES BUCHANAN.

GEORGE BANCROFT, ESQRE., &c., &c., &c.

¹ S. Ex. Doc. 100, 32 Cong. 1 Sess. 153; H. Ex. Doc. 120, 32 Cong. 1 Sess. 106; Instructions, Great Britain, XV. 336. See note to Mr. Buchanan's letter to Mr. King, of August 3, 1846, *supra*.

TO MR. CAMPBELL.¹

DEPT. OF STATE,

R. B. CAMPBELL, ESQR.

10 Decr., 1846.

U. S. Consul, Havana.

SIR.

I transmit herewith, a copy of the President's Message. You will observe that he refers with great pleasure to the assurances received from the Government of her Catholic Majesty, that the stipulations of the existing Treaty with this Govt., respecting privateering, should be faithfully observed; & particularly to the orders which, with a view to that object, have been transmitted to the Authorities of Cuba & Porto Rico. Every confidence exists that the Treaty "will be executed in its true spirit," and you will be unceasing in vigilance to detect any attempt to violate its provisions, & prompt, should they be discovered, to invite the interposition of the local Authorities to suppress them.

I am Sir &c.

JAMES BUCHANAN.

The same sent to the Consuls at Matanzas, St. Iago, & Trinidad, Cuba—& to those at Mayaguez, St. John's, Guayama, & Ponce, in the Island of Porto Rico.

REPORT ON THE CONSULAR SYSTEM.²

[December 12, 1846.]

The Secretary of State, in obedience to the resolution adopted by the House of Representatives on the 10th August last, referring to him the bill "to revise the consular system of the United States," "with instructions to make a report to the House, at the commencement of the next session, on our consular system generally, with such information as he may be able to collect and arrange upon the subject," has the honor to submit the following

¹ MSS. Department of State, Despatches to Consuls, X. 400.² This report was transmitted by Mr. Buchanan, December 14, 1846, to the Hon. John W. Davis, speaker of the House of Representatives, and was printed in H. Ex. Doc. 12, 29 Cong. 2 Sess. It is recorded in MS. Report Book, VI. 225.

REPORT.

It is due both to the House and to himself to state, in the commencement, that it has been impossible for him, without neglecting the current and urgent business of the department, to devote the time necessary to comply with their resolution in a satisfactory manner. To collect the requisite information, and to prepare a well digested plan for the reconstruction of our very imperfect and inadequate consular system, would require the continued labor of a competent person, well versed in consular duties, during a period of several months.

A consular system, adequate to the protection of our extended foreign commerce, ought to be embraced in a single law, to which our consuls could upon all occasions refer.

These officers are spread over the whole foreign world. They are often citizens who, however respectable, are not, from their previous pursuits, well qualified to examine and investigate a great number of detached laws scattered over our statute book from the origin of the government. At a distance from their country, they do not possess the means of obtaining legal advice as to what provisions of previous acts, on account of their inconsistency with those of a subsequent date, have been thereby repealed. For this, and other obvious reasons, the Secretary would respectfully suggest that the whole consular system ought to be included in a single bill, and all former acts upon the subject repealed.

This bill should provide—

I. For the number, appointment, and compensation of all consuls general, consuls, and vice-consuls.

II. It should clearly define all the duties of these officers, and specify the fees to be received for their performance.

In regard to the number of consulates, these have increased beyond what is necessary. This has resulted from the mode of their appointment; and the number must still continue to increase until it shall be limited by law. Under the practice which has always prevailed of appointing new consuls, at the discretion of the President and Senate, to any place throughout the foreign world, it was almost impossible to confine these appointments within proper limits. When a respectable citizen went abroad to establish himself in mercantile business at any place where no consulate had previously existed, it immediately became a desirable object for him to obtain the appointment of

consul at his new residence. This would give him rank, and increase his business. In such cases, it was difficult to resist his own solicitations and those of his friends; and thus appointments have been made in many instances without necessity. The policy of limiting the number of consulates adopted by the present bill is certainly entitled to approbation. Their number is now one hundred and sixty-eight, independently of ten commercial agencies. (Statement No. 1, attached to this report.) This bill provides for the appointment of seventy-four consuls and fifty-five vice-consuls, making in the aggregate one hundred and twenty-nine; and even this number might perhaps be reduced with advantage. These officers, with the approbation of the Secretary of State, might be permitted to appoint consular agents, for whom they would be held responsible, at any place within the bounds of their consulates of sufficient importance to require the services of such agents.

CONSULS GENERAL.

No act of Congress authorizes the appointment of consuls general. It may be well worthy of consideration, however, whether it would not be proper to establish this grade at some of the more important ports in Europe; whilst it is certain that this would be expedient with respect to the Barbary States, and some of the ports along the Levant. In the latter countries, rank is often of great importance; and our simple consuls have not enjoyed the same privileges there, and for this reason have not had it in their power to serve their government and their countrymen to the same extent with the consuls general of other nations. To refer to a single instance: our consul at Alexandria is deprived of the advantage of holding personal intercourse with the viceroy of Egypt, simply because he does not bear the title of consul general. No objections can be perceived to conferring upon our consuls, in a few proper cases, especially in semi-barbarous countries, the title of consul general. It would be only to change the name, without increasing the expense to the government.

MODE OF COMPENSATING CONSULS.

So much has been written and said in favor of changing the mode of compensating our consuls, that it is unnecessary for the Secretary to enlarge upon the subject. He is very clearly of opinion that they ought to be compensated, as the present bill

proposes, by salaries from the treasury—at least at the more important ports—and not by fees. He is fully convinced that until this change shall be effected, and until our consuls at those ports with which we conduct a large foreign trade shall be prohibited from engaging in mercantile pursuits, we can never have such a consular system as is due to the vast interests of our extended commerce.

Great Britain pays a fixed salary to all her consuls general, consuls, and vice-consuls; and in addition, authorizes them to receive certain moderate fees for their services. The French system is understood to be the same, except that the fees received are not for the benefit of these officers themselves, but are appropriated to other purposes connected with their consulates.

At present our consulates are generally held by commission merchants, residents abroad. The fees attached to them, except in a few instances, yield an amount wholly insufficient for the support of the consul and his family. They are therefore sought after merely to give the consul rank, and as a means of increasing the consignments made to him as a commission merchant. The consulate is thus rendered subsidiary to his private business; and the temptation is great to abuse his public trust, for the purpose of favoring his customers. If he should be proof against this temptation, which is believed to be generally the case, still he is suspected. Merchants who do not make consignments to him, and the masters of their vessels, will always be jealous of his conduct. A consul is under the strongest obligations, as an officer of the government, to extend equal protection to all Americans engaged in foreign commerce; and he ought, therefore, to have no pecuniary inducement to swerve from this line of duty, in favor of any individual. He is intrusted with important public concerns, and his time ought to be exclusively devoted to them. This would give him a consideration and influence with the authorities at the place of his residence, for the benefit of his countrymen, which he can never enjoy so long as his office shall continue to be a mere incident to his mercantile business. Many evils, which need not be enumerated, have resulted from the present mode of compensating consuls.

CONSULAR FEES.

In the Secretary's opinion, our foreign commerce ought not to be taxed with any consular fees. It has to sustain a competition with the whole world, and through its agency we collect

the greater part of the revenue for the support of the federal government. To relieve it from the payment of consular fees would therefore seem to be both politic and just. Still, the present may not be deemed a propitious moment to cast the whole system upon the public treasury. In accordance with this view, the bill provides that consular fees shall continue to be collected for the purpose of indemnifying the treasury in part for the payment of the salaries of consuls and vice-consuls. It also wisely proposes so to regulate these fees as to prevent all disputes concerning them between consuls and the persons requiring their services. These charges may probably be rendered still more specific and certain; but this could be better done in a personal conference with the chairman of the proper committee, than by entering upon such details in this report.

Under the present regulations, the subject is involved in such obscurity that different charges are levied at different consulates. This gives rise to frequent disputes, especially between ship-masters and consuls, in regard to the taxation of fees, greatly to the discredit of both, as well as to that of the government. This evil would, in a great degree, be remedied by that provision of the present bill which requires the payment to the consul of one cent per ton on the tonnage of each vessel as a compensation "for receiving and delivering the ship's papers." For the sake of greater precision, it might be expressed "for receiving the deposit of a ship's papers, and granting a certificate thereof under seal, and for returning the same with a like certificate, and in full for all official services whatever respecting the entry and clearance of a vessel."

With such a provision, no dispute about fees for the entry and clearance of vessels could hereafter arise. Besides, this assessment on the tonnage of the vessel would be much fairer than the existing charge. At present, a vessel of a thousand pays no more fees than a vessel of a hundred tons burden. It ought to be observed, however, that one cent per ton would not, in the aggregate, be equal to the existing charges; though one cent and a half per ton would be sufficient to collect this amount. (Vide tables Nos. 2 and 3, attached to this report.)

A CONSULAR CODE.

But, after the number, appointment, and compensation of our consular agents shall have been determined, and the organization of the system, in these particulars, shall have been com-

pleted, the important task would still remain of defining, by law, the powers and duties of consuls. This will prove to be a task of great difficulty and delicacy; the performance of which, in a proper manner, will require much knowledge and patient investigation.

On this point the provisions of existing laws are exceedingly defective. "These provisions," in the language of Mr. Livingston, "extend only to the authority given to consuls to receive protests and declarations; to give copies under the consulate seal; to settle the affairs of American citizens who shall die within the limits of the consulate; to secure property saved from wrecks; to provide for the deposit of the ship's papers; and to afford relief to destitute American seamen." It is true that, since the date of Mr. Livingston's report, from which the above is an extract, Congress have passed the act of July 20, 1840, which contains some useful provisions, so far as they extend, relative to the duties of consuls; yet still Mr. Livingston's enumeration remains true to the letter.

In all the wide range of consular duties, with the exception of these few particulars, the consul is left to his own discretion, under the sweeping enactment of the 9th section of the act of the 28th February, 1803. This declares "that the specification of certain powers and duties in this act, to be exercised or performed by the consuls and vice-consuls of the United States, shall not be construed to the exclusion of others, *resulting from the nature of their appointments, or any treaty or convention under which they may act.*"

The Secretary would respectfully call the attention of the House to this important subject, and suggest that provision be made by law for defining, with as much accuracy as the nature of the case will permit, what are the powers and duties of the consular office. These should no longer be left to the discretion of the consuls themselves—regulated by no rule whatever, except what they may deem as "resulting from the nature of their appointments." Congress would not tolerate that any important officer within the United States—for example, a collector of the customs—should exercise such a discretion. How much more necessary, then, that a class of public agents whose field of duty lies beyond the limits of the United States, far from the means of information, and whose conduct must materially affect the interests of our foreign commerce, and may, under peculiar cir-

cumstances, even endanger the peace of the country, should have their powers and duties defined in a clear and explicit manner.

THE POWERS AND DUTIES OF CONSULS UNDER TREATIES WITH FOREIGN NATIONS.

In the middle ages consuls exercised extensive civil and criminal jurisdiction, at the places where they resided, over the subjects and citizens of their respective countries. This practice has long since ceased, except in regard to Mohammedan and other nations occupying a similar position towards Christendom. Christian powers, with a due regard to the protection of their own citizens and subjects, could not suffer them to be tried and punished for crimes and offences in the summary manner practised among these nations, with all their prejudices against foreigners. By our treaties, therefore, with the Sublime Porte and the Emperor of China, these sovereigns are deprived of all criminal jurisdiction over our citizens. As a substitute for this jurisdiction, it is provided, in the 4th article of our treaty with the Sultan, that offences committed by American citizens in Turkey "shall be tried by their minister or consul, and punished according to their offence—following, in this respect, the usage observed towards the other Franks." And under the 21st article of our recent treaty with China, "citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the consul, or other public functionary of the United States, according to the laws of the United States. And in order to the prevention of all controversy and disaffection, justice shall be equally and impartially administered on both sides."

Good faith thus requires that Congress should provide for the trial and punishment of crimes and offences when committed by American citizens in the dominions of the Sultan and the Emperor of China. Having surrendered this sovereign power to the United States, under a solemn engagement on our part that it shall be faithfully executed, the Turkish and Chinese governments have a right to expect that Congress shall provide for the performance of this obligation. There is an urgent necessity that this should be done immediately. At present, these stipulations are a dead letter; because it is not presumed that any consul of the United States, resident in those countries, would undertake to try, convict, and punish our citizens for offences committed

there. Should a flagrant crime be perpetrated upon a Turk or Chinese by any of our citizens, and should punishment not follow, according to the requisitions of the treaty, this might disturb if not destroy our friendly relations, and do great injury to our commerce. Accustomed as they are to summary justice, they could not be made to understand why criminals, who are citizens of the United States, should escape with impunity, in violation of treaty obligations, whilst the punishment of a Turk, or a Chinese, who had committed any crime against an American citizen, would be rigorously exacted.

Under existing treaties with Tripoli, Tunis, Morocco, and Muscat, all disputes between citizens of the United States, in these countries, are to be decided by the proper consul; and in the three former, whenever he shall require any aid to enforce his decisions, it is to be immediately granted by the government of the country.

Under our treaties with Sweden, Prussia, Russia, Hanover, and Portugal, our consuls "have the right to sit as Judges and arbitrators in such differences as may arise between the captains and crews" of American vessels in these countries.

The mode in which these judicial powers shall be executed by consuls has never yet, in a single instance, been prescribed by Congress.

EXPENDITURE BY CONSULS FOR THE RELIEF OF DESTITUTE AMERICAN SEAMEN IN FOREIGN COUNTRIES.

Among the few duties prescribed to consuls by law, there is one worthy of immediate consideration. These officers are the agents of the government to afford relief to destitute American seamen in foreign countries, and to disburse the money for this purpose. As a compensation for this trouble, they are allowed five per cent. on the amount of their expenditure.

The amount appropriated for this purpose has, of late years, rapidly increased, being now \$75,000 per annum, nearly double what it was in 1840, and for several years preceding, when \$40,000 per annum was the sum appropriated. (Vide table No. 4, attached to this report.) This increase has been much greater than can be accounted for by the extension, rapid as this has been, of the foreign commerce of our country. One great cause of it may undoubtedly be found in that provision of the act approved July 20th, 1840, which authorizes consuls, when they deem it expedient, to discharge seamen in foreign ports,

upon the joint application of the master of the vessel and the seamen, "without requiring the payment of the three months' wages, under the provisions of the act of the 28th February, 1803, or any other sum of money."

Although the bill under consideration contains several salutary enactments to prevent the abuse of this power by consuls, yet it is respectfully submitted that in this particular the act of July 20th, 1840, should be altogether repealed.

Seamen, as a class, are thoughtless and improvident, whilst their services are essential both to our commercial marine and to our navy. When the master of a vessel employs them on a foreign voyage, it is but fair that he should stipulate for their safe return. On him, and not upon the government, ought to devolve the charge of bringing them back to their country. The act of the 28th February, 1803, "supplementary to the act concerning consuls and vice-consuls, and for the further protection of American seamen," enforces the performance of this duty. Under its provisions, every master of a vessel bound to a foreign country, before he can obtain his clearance, must exhibit to the collector of the port from which he is about to sail, a list of the crew verified under oath. This original list is to remain with the collector, but a certified copy thereof is to be delivered to the master of the vessel, who is obliged to "enter into bond, with sufficient security, in the sum of four hundred dollars, under the condition that he shall exhibit this copy of the list of his crew to the first boarding officer at the first port in the United States at which he shall arrive on his return thereto, and then and there also produce the persons named therein to the said boarding officer, whose duty it shall be to examine the men with such list, and to report the same to the collector."

In order to relieve himself from his bond, the master must, on his return to the United States, "produce the persons named in the list" to the boarding officer, unless in four excepted cases. These are—

1st. When a seaman has been "discharged in a foreign country, with the consent of the consul, vice-consul, commercial agent, or vice-commercial agent, there residing, signified in writing, under his hand and official seal, to be produced to the collector;"

2d. The death of the seaman;

3d. His absconding or desertion; and

4th. His impressment into other service.

In the three latter cases, he is bound to exhibit to the collector satisfactory proof of the alleged facts.

THE CONSENT OF THE CONSUL TO THE SEAMAN'S DISCHARGE.

Whilst it is the duty of the United States, in any event, to provide for the relief of their distressed seamen in foreign countries and for their return home, it is not just that the government should bear the expense of performing this duty when it is imposed for the accommodation or advantage of the masters of vessels. He who receives the benefit ought to bear the charge. It was, therefore, provided by the act of February, 1803, that no consul should consent to the discharge of a seaman in a foreign country, and thereby relieve the master of a vessel from his bond, until such master should first pay to the consul, &c., "for every seaman or mariner so discharged, being designated on such list as a citizen of the United States, three months' pay over and above the wages which may then be due to such mariner or seaman; two-thirds thereof to be paid by such consul or commercial agent to each seaman or mariner so discharged, upon his engagement on board of any vessel to return to the United States, and the other remaining third to be retained for the purpose of creating a fund for the payment of the passages of seamen or mariners, citizens of the United States, who may be desirous of returning to the United States, and for the maintenance of American seamen who may be destitute, and may be in such foreign port."

By the provisions of this act, no seaman could be lawfully discharged abroad, under any circumstances, without this payment of the three months' wages. The consul could not consent to his discharge on any other condition. And this was no hardship on the master of the vessel. He was bound by his bond to return his seamen to the United States; and the payment of these three months' wages relieved him from this obligation.

Thus the law remained until after the passage of the "Act in addition to the several acts regulating the shipment and discharge of seamen and the duties of consuls," approved July 20th, 1840. Under this act our consuls are authorized, if they deem it expedient, to discharge seamen in any foreign port, upon the joint application of the master and seaman, without requiring this payment.

This provision has proved alike injurious to the seaman and unjustly expensive to the United States. It has diminished

the fund provided by law for the support of destitute seamen in foreign countries, and for their return to the United States, and has cast the burden upon the public treasury. It has benefited no person but the ship owner, in relieving him from the obligation, justly imposed upon him, of restoring the crew which navigated his vessel, to their country and their home.

Should Congress deem it expedient to repeal this provision of the act of 1840, and indeed in any event, it may be proper to place whalers, by positive enactment, upon the same footing with other vessels in regard to the payment of the three months' wages. Whaling voyages are often undertaken upon an agreement between all persons on board to share the profits of the adventure; and hence it has been contended that, as no specific wages are in such cases stipulated, the master is not bound to pay an equivalent for the three months' wages upon the discharge of a seaman. Although the decision at the treasury has been against such exemption, it is submitted whether the point should not be placed beyond doubt or dispute. Equal justice requires that the masters of such whalers should be placed on the same footing in this respect with the masters of other vessels.

It may be stated that under the act of July, 1840, it has been left to the discretion of the consul whether he will allow the discharge of a seaman without the payment of the three months' wages; but yet it is difficult for him, when both the master and the mariner insist upon it, to resist their joint application. The consequence has been, that great numbers of our seamen, discharged chiefly from whaling vessels, are left destitute on the distant islands and shores of the Pacific, a charge to the government. Whilst this law has thus aggravated the sufferings of seamen, and delayed their return to their country, it has entailed on the treasury a heavy additional expense for their relief and their passage to the United States. Opportunities offer but seldom in those remote regions for sending them home, and they often remain there a long time in charge of our consuls. The money expended for the relief of American seamen at the Sandwich Islands, the Society Islands, Valparaiso, Cape of Good Hope, Lima, Paita, and Talcahuano, has increased more than threefold since the passage of the act of 1840. The amount disbursed for that year was \$14,589.02, whilst for the year 1845, the last for which full returns have been received, it amounted to \$44,485.97. (Vide statement No. 5, attached to this report.)

As observed before, it is not intended to convey the idea that the whole of this increase of expenditure is attributable to that act. The extension of our whale fisheries, with which all must be gratified, is one of its legitimate causes. Moreover, the hospital and medical expenses, and the charge for boarding at these ports, appear to be extravagant, though possibly they may be necessary. (Vide statement No. 6, attached to this report.) Our consuls receive five per cent. as a compensation for their trouble upon all these disbursements. They thus have a direct interest in increasing the amount. Whilst it might be unjust even to insinuate that this interest has interfered with the discharge of their duty, yet it is submitted that they ought to be compensated by a fixed salary, instead of commissions, for the performance of this service.

Some legislation is necessary to enforce a compliance with the conditions of the bond required to be executed by masters of vessels under the first section of the act of 1803. From all that can be learned, this bond has in practice become nearly a dead letter. Although seamen are often discharged in foreign ports without a compliance with any of the provisions of the law, yet suits have rarely been brought upon these bonds.

It is respectfully suggested that it be made by law the duty of the collector to cause suit to be instituted on every such bond after a limited period, unless in the mean time the evidence required by the act to prove a compliance with its condition shall be exhibited by the master of the vessel. Some such provision is necessary, both for the protection of seamen from injustice and ill treatment, and the United States from imposition.

CONSULAR CORRESPONDENCE.

The bill properly requires consuls and vice-consuls to furnish to the department, at stated periods, such information as may be rendered useful to the country, and imposes upon it the corresponding duty of communicating this information annually to Congress in a digested form. The Secretary has already had occasion to state his opinion on this subject, on the 16th March last, in his answer to the inquiries of the Committee on the Judiciary of the House, in reference to the reorganization of the State Department, to which he now respectfully refers. (Report No. 552, of the last session of Congress.) He entertains not a doubt that a mass of information might be procured through the agency of a properly constituted consular system,

which would be of great advantage to the navigating, commercial, agricultural, and manufacturing interests of the country. But in order to render this available, it is indispensable that a competent person should be employed, as the bill proposes, to digest, arrange, and publish the information thus obtained, for the use of Congress and the people. It is impossible that the two consular clerks now in the department should, besides their present duty of corresponding with one hundred and sixty-eight consuls on the current business of their consulates, perform this additional service. Indeed, these clerks are not sufficient for the proper discharge of the present business of the branch on which they are employed.

CONSULAR CERTIFICATES TO INVOICES OF FOREIGN GOODS.

The Secretary would merely glance at this subject as one more properly belonging to the Treasury Department. He is convinced, however, that under proper regulations consular certificates, at the places of exportation, to *all* invoices of foreign goods, might be rendered an efficient means of ascertaining their true value, and thereby preventing frauds upon the revenue, whilst these certificates would, at the same time, secure the honest merchant against fraudulent competition. Further legislation on this subject has become the more necessary since the abolition of all specific duties under the present tariff.

All which is respectfully submitted by

JAMES BUCHANAN.
Secretary of State.

DEPARTMENT OF STATE, December 12, 1846.

MESSAGE OF PRESIDENT POLK ON A TREATY WITH SWITZERLAND.¹

TO THE SENATE OF THE UNITED STATES:

I transmit to the Senate, for their consideration and advice, with regard to its ratification, a convention for the mutual surrender of criminals between the United States and the Swiss Confederation, signed by their respective plenipotentiaries on the 15th of September last, at Paris.

I transmit also a copy of a dispatch from the plenipotentiary of the United States, with the accompanying documents.

December 14, 1846.

JAMES K. POLK.

¹ Senate Executive Journal, VII. 157.

TO MR. DICKENS.¹

DEPARTMENT OF STATE,
WASHINGTON, December 14, 1846.

ASBURY DICKENS, ESQR.

(Secretary of the Senate.)

MY DEAR SIR:

I regret that I did not see you when you called at the Department this morning. The Treaty with Hanover was executed in quadruplicate instead of duplicate, and two copies were consequently transmitted to the Department, the one naming first the U. S. and the other the King of Hanover. By some unaccountable mistake, the latter, instead of the former, was transmitted to the Senate with the President's message. I now enclose the proper copy to you and request that it may be substituted for the copy formerly sent. If it should be deemed necessary, which I do not presume, the President will send a message to this effect to the Senate.

As the committees have not been appointed, I send you two original despatches of Mr. Mann (Nos. 2 and 7) on the subject of the Treaty, which you will please to return when no longer needed.

Yours very respectfully,

JAMES BUCHANAN.

TO MR. DONALDSON.²

DEPARTMENT OF STATE,
WASHINGTON, December 15, 1846.

JOHN J. DONALDSON, ESQR.

(Office of the Universal Insurance Company, Baltimore.)

SIR:

Your letter of yesterday has been received, and in answer to its enquiries I have to state, that it appears from a despatch of Mr. Bidlack, dated the 16th of January last, that he had then remitted eleven thousand three hundred & fifty dollars on account of the claim in the case of the Morris.

In a despatch of the 19th of February he speaks of a

¹ MSS. Department of State, 36 Domestic Letters, 143.

² MSS. Department of State, 36 Domestic Letters, 145.

further remittance of twenty-five hundred dollars in gold, which he had obtained at a cost of eight per ct.

It is inferred from another of his despatches dated the 5th of June that he had received a further payment from the Government of New Granada, but he did not remit the amount in gold, on account of the impossibility of procuring it, except at a rate injurious to the interests of the claimants. He, however, transmitted a draught on the Department for \$3000, on account of the instalment in favor of Mr. H. H. Williams, one of the claimants. This draught has not been sent to Mr. Williams, because the Department could not with propriety pay it, and Mr. Bidlack has been instructed to that effect.

It does not appear that he has received any further payments, and, considering the state of the currency of New Granada, the claimants may not have occasion to regret the want of punctuality on the part of that Government.

I am, &c.

JAMES BUCHANAN.

TO MR. DONELSON.¹

(No. 7.)

DEPARTMENT OF STATE,
WASHINGTON, 16th December, 1846.

A. J. DONELSON, ESQRE.,
&c., &c., &c.

SIR:

I have on purpose delayed until this time to answer your despatch of the 28th of September last (No. 9) communicating the note of the 23d of the same month, addressed to you by Baron Von Canitz which announces the refusal of the Prussian Government to grant an exequatur to Charles Graebe, Esquire, who had then been recently appointed Consul of the United States for the Prussian Provinces of the Rhine. This delay was occasioned by the hope that the Prussian Government might, in the mean time, reconsider its determination, and thus render any instructions to you upon the subject unnecessary. As but little expectation of such a result now remains, I proceed to make a few observations on the note of Baron Canitz.

His first objection to granting the exequatur is, that since March, 1844, Mr. Louis Mark, of New York, has been the

¹ MSS. Department of State, Instructions, Prussia, XIV. 104.

Consul of the United States in these Provinces; and that information had not reached the Ministry of the King that the mission of Mr. Mark has ceased. Without remarking upon the strange declaration, under all the circumstances, that a knowledge of Mr. Mark's removal has not reached the Prussian Government, I transmit, herewith, the copy of a letter from Mr. Calhoun to that gentleman, under date of the 2d August, 1844, revoking his commission.

The second objection stated is, that the Prussian Government has established the principle "not to recognise foreign Consuls except in sea-ports and maritime places:" and when it has departed from this rule in regard to the Rhenish Provinces it has always been under the condition, "that the individuals for whom the *exequatur* was demanded *should be Prussian subjects.*"

It is true, as Baron Canitz states, that the 10th Article of our Treaty with Prussia, of the first of May, 1828, provides only for the appointment of Consuls in the ports of the respective Powers. It is clear, however, that to confine this provision to the letter would defeat the spirit of the Treaty, and destroy all reciprocity between the parties so far as Consuls are concerned. As no seaport exists in the Rhenish Provinces, it would be manifestly unfair that we should be prohibited from having any Consuls there, notwithstanding these Provinces export a large amount of their productions to the United States: whilst Prussia enjoys the benefit of Consuls in all our principal seaports. Indeed, as you justly observe, "much the largest portion of her foreign trade avails itself of the Hanseatic Towns, the Hanoverian Ports and the Rhine in its transit abroad, and not of her own Ports, which are all on the Baltic and are too distant and inconvenient for her populous and manufacturing Districts." The consequence has been that whilst Prussian Consuls reside in New York, Boston, Philadelphia, Baltimore, New Orleans, New Bedford and St. Louis, to attend to her commercial interests, we have only two within the dominions of Prussia, one at Stettin and the other in the Rhenish Provinces: and even this last she would now abolish. Is this conduct consistent with a fair and just reciprocity? Does it correspond with the friendly feelings which have ever been manifested by the United States towards Prussia?

But the 9th Article of our Treaty provides, also, that "if either party shall, hereafter, grant to any other nation, any particular favor in navigation or commerce, it shall immediately be-

come common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional." I am informed, that the Prussian Government has granted exequaturs to a Bavarian and a Belgian Consul within the Rhenish Provinces, *and these not Prussian subjects*. Should this prove to be the fact, then under the express letter of the Treaty, placing us in regard to commerce, on the footing of the most favored nation, we have a right to maintain Consuls in these Provinces.

It would appear from a despatch of Mr. Graebe to this Department of the 14th October last (from which I transmit an extract) that this determination of the Prussian Government must have been of recent origin. That Government, but a few years since, it seems, refused to grant an exequatur to a Mr. Oppenheim of Cologne who had been nominated by the Belgian Government as Consul for the Rhenish Provinces;—*and this simply because he was a Prussian subject*.

But Baron Von Canitz is pleased to say, that if the Government of the United States should appoint "*a Prussian subject*" Consul for the Rhenish Provinces, the Ministry of the King would not hesitate to grant him an Exequatur. The President cannot accept this offer on the condition required.

From the nature, variety, and importance of Consular duties, and their bearing on the commercial interests of nations, Consuls ought always to be citizens of the country which they represent. Accordingly Vattel (Book 2. Cap. 2. Sec. 34.) declares that "the functions of a Consul require, in the first place, that he be not a subject of the State where he resides: as, in this case, he would be obliged in all things to conform to its orders, and thus not be at liberty to acquit himself of the duties of his office." Chitty, in his Commercial Law (Vol. 1. page 48.) adopts the same principle. It is true he proceeds to say: "But, contrary to this principle, it is not unusual to appoint a native of the foreign State to be the Consul there; as in Portugal, Spain, and Italy, where there is a scarcity of British subjects, and in which it has been customary for the Consuls-General to appoint natives of such Countries to act as their deputies at inferior ports." He adds, however, "but this, it has been observed, is an unwarrantable and impolitic practice."

The President, at an early period of his administration, had this subject under consideration, and determined to appoint no Consuls who were not American citizens: and, indeed, several

Consuls have been removed because they did not possess this qualification. This determination has been carried out in practice in all cases except where competent American citizens could not be found willing to accept the office.

The Bill reported to the House of Representatives on the 17th of June last "to revise the Consular system of the United States," and which with some modifications may, I trust, become a law at the present Session, provides that no person shall be appointed a Consul or Vice-Consul, who is not a citizen of the United States.

Under all these circumstances, the President has determined forthwith to vacate the acting appointment of Charles Hecker, at Elberfeldt. Enclosed you will find a letter addressed by me to him for this purpose, which you will please to forward to the place of its destination without delay. None of the Prussian Consuls in the United States shall for the present be disturbed in the performance of their functions, although one of them resides at St. Louis, far in the interior of the Country.

A stronger case could not easily be imagined to manifest the propriety of selecting American citizens as Consuls, than that which now exists at Elberfeldt. Mr. Hecker, at the time of his appointment, was, and still is, President of the Chamber of Commerce at that place.—Highly respectable as he doubtless is, who would say, that, with all the feelings which must actuate him in favor of the Exporting Merchants of his own city, he would be a suitable person to verify the invoices of their goods? Since the abolition of all specific duties under our late Tariff, Consular certificates, under proper regulations, will be resorted to by the Secretary of the Treasury as an efficient means of ascertaining the true value of foreign exports, and thereby preventing frauds upon the revenue. This, at the same time, will secure the honest merchant against fraudulent competition. Surely, then, an officer invested with such powers, ought to be a citizen of the United States, strongly identified in feeling with their prosperity, and not a subject of a nation placed by his position at the head of the foreign merchants in the city of his residence.

A Consul at Elberfeldt has scarcely any other duty to perform than to certify such invoices. Indeed the Consulate was established chiefly for the accommodation of Prussian merchants in the Rhenish Provinces. If, hereafter, they shall be obliged to travel to Ports of Export beyond the Prussian dominions for

the purpose of having their invoices certified by American Consuls there, the blame will rest upon their own Government, and not upon that of the United States.

You are instructed to present these views, or such of them as you may deem expedient, to Baron Canitz, in a firm but friendly manner; and add any of your own which may be likely to produce a favorable effect. You may assure him, at the same time, that it is the anxious desire of the President to perpetuate all those friendly relations with Prussia which have existed between the two countries, ever since we became an independent Nation.

Yours, very respectfully,

JAMES BUCHANAN.

P. S.—Your despatches to No. 13, inclusive, have been duly received at this Department.

TO MR. SEVIER.¹

DEPARTMENT OF STATE,
WASHINGTON, 19th December, 1846.

TO THE HONORABLE A. H. SEVIER,
Chairman of the Committee on Foreign Affairs,
Senate.

SIR:

On the 18th December last the President transmitted to the Senate, for its consideration, a convention concluded at Berlin on the 29th January, 1845, between the United States and Prussia, for the mutual extradition of fugitives from justice in certain cases. The Prussian Government is anxious to know what has been the decision of the Senate upon this Convention, to which it appears to attach considerable importance. It is the more sensitive upon the subject, from the fate of the Zollverein treaty. If this Convention has been finally disposed of, I would thank you to request Mr. Dickens to return it to the President with the decision of the Senate.

In December, 1844, a treaty of Commerce and Navigation was concluded by Mr. Blackford with New Granada, which is now before the Senate.² No copy of this Treaty remains in the

¹ MSS. Department of State, Report Book, VI. 225.

² This treaty was permitted by the Senate to fail by inaction, as is stated in Mr. Buchanan to Mr. Bidlack, January 2, 1847, infra.

Department, nor do I recollect its special provisions. Will you be good enough to request Mr. Dickens to return this Treaty, also, with the action of the Senate upon it.

Yours very respectfully,

JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.¹

Circular.

DEPARTMENT OF STATE,
WASHINGTON, 22nd December, 1846.

DON A. CALDERON DE LA BARCA,
&c., &c., &c.

SIR:

In order that this Department may be enabled to answer enquiries which are not unfrequently addressed to it, I beg leave to ask the favor of you to furnish me with a statement of the Consulates-General, Consulates and Vice-Consulates of your Government, at this time in operation in the United States, together with the names and residences of the persons employed therein, who have received a recognition from this Government.

I will further request, that, in future, whenever any change shall occur in the Consular corps of your country within the United States, whether by the closing of a Consulate, or by the death, resignation, or removal of the officer charged with it, such change may be notified to this Department at the earliest convenient moment.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Spanish Legation, VI. 147.

TO THE CHEVALIER HÜLSEMANN.¹

DEPARTMENT OF STATE,
WASHINGTON, 22nd December, 1846.

THE CHEVALIER HÜLSEMANN,
&c., &c., Austria.

SIR:

I have received the note which you did me the honor to send me on the 31st of October last, and have to state, in reply, that the Vice-Consuls of the United States abroad are not officers bearing a commission from this Government. Being merely adjuncts, or deputies, of the particular Consuls by whom they are appointed, (such appointments requiring the subsequent approval of this Department,) their official functions and character correspond to the nature of their appointment. They are not *ex officio* entitled to address their communications to this Department, or to enter into direct correspondence with it.— As Agents of the Consul, they are accountable to him for their official acts, and they are not amenable to this Government: the Consul himself being held responsible to it for the conduct of his subordinates.

You will hence perceive that the acceptance of the office of Vice-Consul of the United States by a subject of a foreign Power, does not in any manner affect his allegiance to his Sovereign, or operate any change in the jurisdiction to which the individual thus employed has been previously subjected.

I am, Sir, with high consideration,
Your obedient servant,

JAMES BUCHANAN.

TO MR. BANCROFT.²

(No. 7.)

DEPARTMENT OF STATE,
WASHINGTON, 24th Decr., 1846.

GEORGE BANCROFT, ESQRE.,

SIR: The enclosed is a copy of a despatch of 20th November last, with enclosed papers, recently received from the Consul of the United States at Demerara, in British Guiana. Among the accompanying papers will be found a statement of the im-

¹ MSS. Department of State, Notes to German States, VI. 149.

² MSS. Department of State, Instructions, Great Britain, XV. 338.

ports and exports of the port of Georgetown, in that Colony, for the year ending the 31st of May last. You will perceive from it that this trade is of no inconsiderable amount, though laboring under great disadvantages, and that the Colony affords a market for many articles the production of the United States. It is to be regretted that most of the articles of American growth or manufacture imported into this British possession—although of the first necessity—are burdened by the local legislative authorities with onerous duties, (see table of duties marked A.,) whereby their consumption is necessarily much restricted. A more liberal policy, in this regard, would be too manifestly beneficial to all parties concerned in the trade, to call for remark from me; and as a disposition to reduce the duties on importation is alleged to exist on the part of many of the leading men of the Colony, to which some encouragement is said to have been given by the proper department of the Metropolitan Government, a representation addressed to Her Majesty's Government, in accordance with the suggestion of Consul Masters, might, if opportunity made, be successful in obtaining a modification of the existing colonial tariff.—Should a favorable occasion arise of presenting the subject to Lord Palmerston's notice, you are authorized to embrace it, and to urge upon His Lordship the important advantages which would result from removing, or at least relaxing, the heavy restrictions which now fetter the trade between this country and British Guiana.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. HARTSHORNE.¹

DEPARTMENT OF STATE,

WASHINGTON, Dec. 24, 1846.

RICHARD HARTSHORNE, ESQ^R.

(No. 87 South Street, New York.)

SIR:

The letter addressed by you, under date the 19th instant, to the Secretary of War, has been referred to this Department, and I have to state, in reply, that the recommendation of the President to Congress, to authorise the issuing of letters of

¹ MSS. Department of State, 36 Domestic Letters, 149.

Marque and Reprisal, not having as yet been acted upon by that body, it is not in his power to comply with your request.

I am, &c.

JAMES BUCHANAN.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, 26th Decr., 1846.

Rt. HONBLE. R. PAKENHAM,
&c., &c., &c.

SIR:

I duly received the note of Mr. Crampton of the 19th of August last, transmitting to this Department, with other papers relating to the subject, a copy of a letter addressed to you on the 11th of the same month, by Earl Cathcart, in which His Lordship requests you to bring under the notice of the Government of the United States the case of Mr. Joseph Wilson, Agent of the Crown Land Department of the Province of Canada, at Sault Ste. Marie, Lake Superior, who, in consequence of his having seized as the property of the Province, a quantity of timber cut by an American citizen on Jona's or Squirrel Island, was subsequently arrested and imprisoned at Chippewa, by the authorities of the State of Michigan. His Lordship further desires that you will obtain from this Government an acknowledgment that the island in question is a British possession, as well as indemnification for the arrest and detention of Mr. Wilson.

Immediately after the receipt of Mr. Crampton's communication, the Attorney of the United States for the District of Michigan was directed to institute an inquiry into the facts of the case, and to report them to the Department as fully and promptly as possible. In the execution of these instructions, this officer repaired to the Sault Ste. Marie, and in his first report to this office, dated the 20th of September last, says that "after the most diligent inquiry and examination" there, "it was found impracticable to decide with any degree of certainty whether Jona's and Squirrel Island were identically the same Island: and it was thought that upon the solution of this question would depend, in some measure, the nature and extent of the

¹ MSS. Department of State, Notes to Great Britain, VII. 149.

grievance of which complaint has been made." At the same time he suggests that the materials accompanying his letter, upon being compared with the map signed by the Plenipotentiaries to the treaty of Washington, would enable the Department to arrive positively at the conclusion that Squirrel Island is, or is not, identical with Jona's Island.

In a final report, made on the 15th of this month, and after he had enjoyed an opportunity of examining the treaty map, and of comparing with it the information derived from personal observation, and from the old residents at the Sault, Mr. Norvell states that he "is perfectly satisfied that Squirrel Island and Jona's Island are identically the same Island," and "that it belongs, by the treaty of Washington, to Great Britain."

Having carefully considered and examined the reports of Mr. Norvell, together with the other papers and maps which relate to the subject, I feel no hesitancy in stating that, by the terms of the second article of the treaty of 9th August, 1842, between the United States and Her Britannic Majesty, Jona's or Squirrel Island is a British Possession, and that the United States have no right or claim to jurisdiction over the same.

In accordance with the request contained in your note of the 16th instant, instructions will therefore be addressed to the Attorney of the United States for the District of Michigan, directing him to cause the necessary steps to be taken forthwith to cancel the bond entered into by Mr. Balandon on behalf of Mr. Wilson.

In regard to the indemnity claimed for Mr. Wilson from the Government of the United States, I regret that I cannot give you a favorable answer. He has doubtless been injured both in his person and in his feelings; but he can obtain redress from the Courts of Justice in Michigan. If the complaints of the people of the two nations against each other along the Canada frontier, properly cognisable in the Courts of Justice of either, were in the first instance to become subjects of international interposition, there would be no end to the difficulties and embarrassments which must result from such a practice. Besides, so far as I have learned, a resort of this kind is not necessary to obtain justice. Courts and Juries on both sides of the line have heretofore, I believe, generally done their duty in such cases.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration. JAMES BUCHANAN.

TO MR. NORVELL.¹

DEPARTMENT OF STATE,
WASHINGTON, December 26, 1846.

JOHN NORVELL, ESQR.

(U. S. District Attorney of Michigan.)

SIR:

A careful examination of all the papers possessed by this Department which afford the materials for forming a correct opinion on the question, leaves me without a doubt that Squirrel and Jones' island is identically the same, and that it belongs, under the Treaty of Washington, to her Britannic Majesty. I have accordingly addressed an acknowledgment to this effect to the British Minister here. It now becomes necessary to remedy, as far as practicable, the inconveniences to which Mr. Wilson, the Agent of the Crown Land Department at Sault Ste. Marie, has been subjected by the unauthorised and illegal proceedings instituted against him by Mr. Church, before a Magistrate in the county of Chippewa, in the state of Michigan. I have, therefore, to request that you will make known to the proper local authorities of that state, that Jones' otherwise Squirrel Island belongs to the British Crown, and that you will forthwith take the necessary steps to cancel the bond which Mr. Balandon entered into, in March last, in behalf of Mr. Wilson.

I am, &c.

JAMES BUCHANAN.

TO MR. BANCROFT.²

No. 9.

DEPARTMENT OF STATE,

WASHINGTON, 28th Decr., 1846.

SIR: I have obtained from the Navy Department, and now transmit to you in accordance with the request contained in your despatch No. 1, the traced copy of Wilkes' chart of the Straits of Arro. This will enable you to act understandingly upon any question which may hereafter arise between the two Governments, in respect to the sovereignty of the islands situate

¹ MSS. Department of State, 36 Domestic Letters, 150.

² MSS. Department of State, Instructions, Great Britain, XV. 340; S. Ex. Doc. 29, 40 Cong. 2 Sess. 1. In the printed copy the word "Haro" is given correctly, instead of "Arro," which appears in the manuscript record.

between the Continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred on the part of Her Britannic Majesty's Government to any island lying to the eastward of the Canal of Arro, as marked in Captain Wilkes' "Map of the Oregon Territory." This, I have no doubt, is the channel which Lord Aberdeen had in view when, in a conversation with Mr. McLane, about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon question, his Lordship explained the character of the proposition he intended to submit through Mr. Pakenham. As understood by Mr. McLane, and by him communicated to this Department in his despatch of the 18th of the same month, it was, "First, to divide the territory by the extension of the line, on the parallel of 49, to the sea; that is to say, to the arm of the sea called Birch's bay; thence by the *Canal de Arro* and Straits of Fuca to the ocean," &c.

I am, Sir, respectfully, Your obedient servant,

JAMES BUCHANAN.

GEORGE BANCROFT, ESQRE., &c., &c., &c.

Enclosure.—"Chart of the Straits of Juan de Fuca, Puget's Sound, &c. By the U. S. Ex. Ex., 1841."

TO MR. BANCROFT.¹

(No. 10.)

DEPARTMENT OF STATE,

WASHINGTON, 29th Decr., 1846.

GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

Your despatches to No. 8, inclusive, have been duly received.

The statistical information you desire to obtain respecting the tobacco trade, so far as it is possessed by this Department, is already within your reach. You will find in the annual treasury reports "of the commerce and navigation of the United States," a detailed statement of the quantity and value of the tobacco, manufactured and unmanufactured, exported each year from our ports, designating the foreign countries to which it has

¹ MSS. Department of State, Instructions, Great Britain, XV. 341.

been sent, and showing likewise the aggregate value of these exports.

The "Compendium of the Sixth Census," a copy of which is doubtless in the Library of your Legation, furnishes a particular exhibit of the number of pounds of tobacco produced in each State and Territory during the year previous to that in which the Census was taken. It is the most recent and reliable source of information on the subject to which I have access. With regard to the capacity of each State and Territory for the production of this article, we have no certain data, and it would be difficult to procure precise statistical information on the subject. I cannot, however, be mistaken in the opinion, that, at remunerating prices, the United States could supply all the markets of the world with tobacco.

I am, Sir, respectfully,

Your obedient servant

JAMES BUCHANAN.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, 29th Decr., 1846.

THE RIGHT HONBLE. RICHARD PAKENHAM,

&c., &c., &c.

SIR:

The most satisfactory answer which I can give to your note of the 14th instant, communicating to me a copy of the despatch from Lord Palmerston to yourself, in relation to Commodore Stockton's notification of blockade, is to furnish you a copy of an order issued by the Navy Department on the 24th instant to the Commanding officer of the United States naval forces in the Pacific Ocean.

Whilst the general language employed by Commodore Stockton may be liable to misconstruction, it is yet sufficiently apparent from the whole proclamation that he did not intend to establish a paper blockade. This would have been equally unwarranted by his instructions and by the principles which the United States have maintained in regard to blockades ever since we became an independent nation.

¹ MSS. Department of State, Notes to Great Britain, VII. 152; 37 Br. & For. State Papers, 565.

Whilst I transmit you a copy of the whole order from the Navy Department, for the satisfaction of Lord Palmerston, I desire that no part of it may be made public except that which specifies what this Government recognizes and will enforce as a lawful blockade under the law of nations.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. DILLINGHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, December 31, 1846.

HON. PAUL DILLINGHAM, JUN.

(House of Representatives)

SIR:

I have received your note of the 28th instant with the accompanying queries of your correspondent. In answer to the first and second of them, I have to remark, that the Treaty of Washington established no new line between the State of Vermont and the Province of Lower Canada. On the contrary, the first article of the Treaty of Washington recognizes "the old line of boundary surveyed and marked by Valentine & Collins previously to the year 1774, as the 45th degree of North latitude, and which has been known and understood to be the line of actual division between the states of New York and Vermont on one side, and the British province of Canada on the other."

The Commissioners appointed to ascertain and mark this line had no authority whatever to vary from it, and I am not aware that they have done this in any instance. As soon as this duty was performed, their act became binding on both Governments, without any further confirmation on the part of either. The Treaty itself finally and conclusively established the old line of Valentine & Collins.

I am informed by Mr. A. Smith, the American Commissioner appointed in conformity with the 6th article of the Treaty of Washington, that in tracing the old line there were some intervals of a few miles, where, from the settlement of the country and the removal of the trees on which the original marks had been placed, the Commissioners were obliged to run

¹ MSS. Department of State, 36 Domestic Letters, 153.

a straight line from one established mark still standing to another. It may be possible, for this reason, that they did not run exactly over the old line; yet I cannot perceive what better course they could have pursued to attain accuracy.

As Secretary of State, I respectfully decline to express any opinion in answer to the third Interrogatory.

I am, Sir, respectfully, Your obedient servant,

JAMES BUCHANAN.

Mr. Colby's letter is herewith returned, in accordance with your request.

TO MR. BOYD.¹

DEPARTMENT OF STATE,
WASHINGTON, December 31, 1846.

HON. LINN BOYD

(House of Representatives)

SIR:

I have the honor to acknowledge the receipt of your letter of 19th instant. If Mr. Stringer is of opinion that the United States Government ought to indemnify him for the loss to which you refer, he should address his application to Congress, who alone have the power to grant it. The province of this Department extends no further than to prosecute claims against foreign governments. In the present instance, the fact that the date of the outrage mentioned in your letter was about five years anterior to our acknowledgment of the Independence of Mexico, would seem to preclude all expectation of obtaining reparation from her, either directly or indirectly. If well founded, it might have constituted a claim upon the Spanish Government, but all claims then pending were settled with that Government by the treaties of 1819 and 1833. Should Mr. Stringer still deem it proper to present his claim to this Department, his proper course would be to address to it a memorial stating his case and asking for the interposition of the Government. The memorial should be accompanied by such documentary proof as he may be able to obtain.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 152.

TO MR. DUNLAP.¹

DEPARTMENT OF STATE.

WASHINGTON, Dec. 31, 1846.

HON. R. P. DUNLAP

(House of Representatives)

SIR:

I have the honor to acknowledge the receipt of your letter of the 19th instant, written at the request of Wm. Buxton, Esq., of North Yarmouth (Maine), enquiring whether, in my opinion, he would be entitled to redress from the Government of the U. States for the loss experienced by him in consequence of a brig of his—which was despatched from New York after the news of the Mexican war had been received there, laden with a cargo for Vera Cruz—having been ordered away by our blockading squadron.

In reply to this enquiry, I have to state, that agreeably to the established practice of nations, it has not been usual to indemnify the parties in any case, whether belonging to the belligerents or to neutrals, for any loss or inconvenience suffered by them, in consequence of being ordered away by a blockading force, even when, at the time of their departure for the blockaded port, they were ignorant of the existence of any war.

I am &c.

JAMES BUCHANAN.

1847.

TO MR. BIDLACK.²

(No. 14.)

DEPARTMENT OF STATE,

WASHINGTON, 2nd January, 1847.

To B. A. BIDLACK,
&c., &c., &c.

SIR:

Your despatches to No. 26, inclusive, have been received.

As you express an opinion that you would be able to conclude a commercial treaty with New Granada, abolishing discriminating duties, a Full Power, authorizing you to conclude and sign such a Treaty, is herewith transmitted.

¹ MSS. Department of State, 36 Domestic Letters, 152.² MSS. Department of State, Instructions, Colombia, XV. 107.

You will have learned from the instructions which have from time to time been addressed to your predecessors in the Legation, that such a Treaty, upon the basis of general reciprocity, has long been desired by the United States. Treaties of this character already exist with the Republics of Venezuela and Ecuador, two of the constitutional parts of the former Republic of Colombia; and good reasons exist why a similar Treaty should be concluded with New Granada,—the remaining portion of that Republic.

Mr. Blackford, shortly before his departure from Bogotá, deemed himself warranted by the circumstances in concluding and signing a Treaty upon a different basis; but this did not receive the approbation of the Senate. Without directly rejecting it, they suffered it to fall, by declining to act upon it. The time for the exchange of the ratifications has long since expired; so that it has now become a mere nullity and presents no obstacle to a new negotiation.

Our treaties with Venezuela and Ecuador, copies of which I transmit with a few marginal notes, may be your models in framing a Treaty with New Granada.

It is true that a Treaty of general reciprocity with that Republic would greatly benefit both our navigation and commerce; but it is equally certain that it would in a corresponding degree encourage their domestic productions. Trade being but an exchange of equivalents, if they receive more from us, we would consume more of the articles which they export. Besides, we are anxious to strengthen our friendly relations with all the South American Republics, and there is no more effectual means of accomplishing this purpose than by a Treaty of Commerce based upon the most liberal terms of perfect reciprocity. But I need not go into details upon a subject which you perfectly understand.

The principal obstacle to the conclusion of a Treaty with New Granada upon the only basis which would prove acceptable to the Government of the United States, has hitherto been the opposition of the Legislature of that Republic to such a measure. If, therefore, your efforts should prove successful, the Treaty ought to be ratified with the approval of their Congress before it shall be transmitted to the United States for ratification by this Government.

I am sorry that the leave of absence which you request cannot be granted, under existing circumstances, with a proper

regard to the public interest. Whilst the President feels every disposition to oblige you, he cannot believe that this Government ought to be left without a diplomatic representative at Bogotá during the continuance of the Mexican war. Besides, the contemplated expedition of General Flores against the Republic of Ecuador forms an additional reason why you should not be absent from your post. We feel a deep interest in the defeat of this expedition, conducted, as it appears to be, under the auspices of an European Power against one of our sister Republics of South America. Our sympathies are strongly enlisted in favor of Ecuador. We could not, in accordance with our established policy, view with indifference any attempt from such a quarter against her independence. It is true that the recent seizure by the Government of Great Britain of the steamers destined for this expedition may render it entirely abortive; but whilst any danger exists, we ought not to be without a representative so near to Ecuador. As we have no Chargé d'Affaires there, we must call upon you vigilantly to watch the progress of events and give us all the information which you can obtain on this important subject.

Agreeably to your request, a flag for your Legation has been directed to be prepared and forwarded.

An extract from that part of your despatch No. 12 which suggests that the mail packets for Chagres be ordered to touch at Cartagena, has been communicated to the Secretary of the Navy.

Your inquiries relative to remittances of funds paid by the New Granadian Government in discharge of claims, were answered in the despatch of this Department of the 16th of September, last. From all I can learn, it is probable that the safest method of making those remittances would be to purchase undoubted bills on England—those for instance drawn by the British representative at Bogotá on account of his salary. It would be proper for you to have the bills made payable to your order and that they should be endorsed by you and transmitted to this Department.

The receipt of the money remitted in the case of the Brig Morris was not expressly acknowledged, because it was known that you held a power from the claimants to act for them in the business, and it was presumed that they were in correspondence with you.

The claimants in the cases of the Sarah Wilson¹ and Economy¹ have been informed of the objections of the New Granadian Government to the sufficiency of the proof in those cases and have been requested to supply the defects, and Mr. G. C. Dekay has been apprized of the absence from the files of the Legation of the papers in the case of the heirs of Henry Eckford.

With reference to the claim of Mr. Edward Leoni,¹ I have to remark, that the statement of the Minister for Foreign Affairs of New Granada to which you refer, that the case had been adjusted by an arrangement between Mr. Acosta and Mr. Webster in 1842, is not borne out by any thing on record in this Department. Under date the 23d of August, 1842, Mr. Acosta addressed a note to this Department accompanied by a copy of testimony taken by his Government for the purpose of justifying its proceedings against Leoni. The receipt of that note was acknowledged and a reply in full promised, but this does not appear to have been given, nor is there any express reference to the case in the subsequent correspondence between Mr. Acosta and the Department prior to the withdrawal of the former from his mission, which took place in November, 1842. It does not appear that any measures have been taken to communicate to Mr. Leoni a copy of the testimony received from Mr. Acosta. Under these circumstances, it is deemed advisable to postpone further proceedings in relation to the case, until you shall receive Mr. Leoni's answer to the testimony, a copy of which is now sent that you may forward it to him for the purpose indicated. An extract from that part of Mr. Acosta's note of the 23d of August, 1842, which relates to the case, is also enclosed.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ See notes, Mr. Buchanan to Mr. Bidlack, June 23, 1845, *supra*.

TO MR. HARRISON.¹

DEPARTMENT OF STATE

WASHINGTON, Jany. 2d, 1847.

R. M. HARRISON ESQRE.

U. S. Consul—Kingston, Ja.

SIR,

Your despatches numbered 361 & 362 have been received.

Under date the 16th of November last, you were advised of the receipt of your despatch No. 360, & with that communication were returned to you the original affidavits of two Citizens of Cincinnati, in the case of Capt. Frisbie, to which at your request the necessary authentications had been obtained by the Department. These & the other documents to which you refer I trust may enable you to establish the innocence of Capt. Frisbie of the crime with which he stands charged, & thereby relieve you from the penalty of the bond so unjustly incurred in his behalf. The communication of Mr. McHenry Boyd will have assured you of the efforts which have been made in your favor through the Legation of the U. States at London, and I am not aware that it is in the power of the Department to do more to promote that result.

I am, Sir, &c.

JAMES BUCHANAN.

TO MR. PICKETT.²

DEPARTMENT OF STATE

WASHINGTON, Jany. 2nd 1846 [7].

JOHN T. PICKETT ESQRE.

U. S. C. Turk's Island.

SIR,

I have received your dispatch No. 24 in which you state that Thomas Green, Master of the Brig Topaz of Newbern, N. C., entered his Vessel at Turk's Island, on the 25th of November last, & cleared on the 30th for Newbern, with a cargo of salt, without having the invoice of the same verified—he having entirely neglected to deposit the Register of his Vessel in your office. You state that "this offence was evidently the result

¹ MSS. Department of State, Despatches to Consuls, XII. 270.

² MSS. Department of State, Despatches to Consuls, XII. 272.

of design & not of accident, or ignorance on the part of the Captain," & you express a hope that the Department will take the necessary steps towards its punishment.

The facts of the case, as stated by you clearly bring the case of Capt. Thomas Green within the provisions of the 2nd Section of the Act of 1803, & I should not hesitate to cause the institution of the necessary proceedings, to recover, in your name, as therein provided, the penalty to which he is amenable, had you furnished the Department with the legal evidence to establish the requisite facts. This, so far as may be in your power, I have to request that you will do without delay.

By the Circuit Court of the U. States for the State of Massachusetts, in a similar case, it has been held that the "certificate of the Consul was not admissible evidence of the arrival or departure of the Vessel."—You will therefore see the necessity of transmitting documentary evidence from the Custom House, duly authenticated, or such other testimony of that character as may be within your reach to establish those facts. The neglect of the Captain to deposit his Register with you, together with every circumstance tending to show that it was intentional, you will also sustain, by the best evidence of which the nature of the case will admit. In the proceedings to be instituted, you will appear as Plaintiff on the record & it is advisable that the proofs should be as far as possible other than your own.

I am Sir &c.

JAMES BUCHANAN.

TO THE CHEVALIER TESTA.¹

DEPARTMENT OF STATE,
WASHINGTON, 7th Jany., 1847.

THE CHEVALIER F. TESTA,
&c., &c., &c.

SIR:

I have received the note which you did me the honor to address to me on the 19th ultimo, informing me that by the new custom house regulations of the Kingdom of the Netherlands the principle of reciprocity has been established as regards the exemptions to be accorded to Foreign Ministers; and that

¹ MSS. Department of State, Notes to Netherlands Legation, VI. 51.

" they will henceforth enjoy, with respect to articles which they wish to pass through the custom houses of the Kingdom, exemption from duties and excises in the same degree, and to the same extent, in which such exemption is granted to Ministers of the Netherlands in the countries which the Foreign Ministers respectively represent."

With reference to this provision of the Dutch law of 19th June, 1845, you request, for the use of His Majesty's Department of Foreign Relations, authentic information as to the privileges and exemptions extended to the Diplomatic Agents of the Netherlands residing in this country, and especially whether any legislative or other modifications have been made in the system pursued up to the year 1836 by the Government of the United States in regard to Foreign Ministers.

I have to state, in reply, that so far as I am aware, no custom house duties of any kind have been, or now are, collected from foreign Diplomatic Agents resident in the United States. This immunity is not accorded by any express statutory provisions, but rests on usage, founded in international comity.

I avail myself of the occasion to renew to you the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. DAVIS.¹

DEPARTMENT OF STATE,

WASHINGTON, January 9, 1847.

The Secretary of State, in obedience to the act to regulate and fix the compensation of clerks in the different offices, approved on the 20th of April, 1818; and to the eleventh section of an act "legalizing and making appropriations for such necessary objects as have usually been included in the general appropriation bills without authority of law, and to fix and provide for certain incidental expenses of the departments and offices, and for other purposes," approved on the 26th of August, 1842, respectfully reports the accompanying statements A, B, C, and D, containing, in addition to the information required by those acts, that called for by a resolution of the House of Representatives of the 13th January, 1846.

¹ H. Ex. Doc. 37, 29 Cong. 2 Sess. 1.

The services of the clerks permanently employed, under existing laws, could not be dispensed with, without injury to the public interest.

JAMES BUCHANAN.

HON. JOHN W. DAVIS,
Speaker of the House of Representatives.

TO MR. MANN.¹

(No. 3.)

DEPARTMENT OF STATE,

WASHINGTON, 9th January, 1847.

To A. DUDLEY MANN, ESQRE.,
Special Agent of the United States
to the Kingdom of Hanover, &c. &c. &c.

SIR:

The Treaty concluded by you with Hanover on the 10th of June last having been duly ratified by the President, the proper copy thereof is herewith transmitted, together with the necessary full Power, in order that the exchange of ratifications may immediately take place.

After effecting this, you will proceed, with as little delay as possible, in exchanging with the Governments of Oldenburg and the two Mecklenburgs, or such of them as may be disposed to enter into the measure, the Declaration provided for by the 12th Article. For this declaration the accompanying form has been prepared, which you will adhere to substantially. In preparing it, the wishes of the Grand Duke of Oldenburg, as shewn in the draft transmitted with your despatch of the 17th June last, have been complied with so far as was deemed practicable. This, however, has not extended further than to make the special exception desired by him, of the stipulations respecting the Stade and Weser-tolls, as being inapplicable to Oldenburg. The condition which he desires to have inserted, securing to vessels built in Oldenburg, and sailing under the flag of Hanover, and to vessels built in Hanover and sailing under the flag of Oldenburg, the right to be regarded as national vessels of the country under whose flag they sail, cannot be adopted.

¹ MSS. Department of State, Special Missions, I. 248.

Even supposing this to be unobjectionable, it could not be done without creating the necessity of submitting the Declaration to the Senate for its advice and consent, before the measure of making Oldenburg a party to the Treaty could take effect. As the Treaty now stands, the mere act "of an official exchange of declarations," is all that is necessary to put it into force with respect to any "one or more of the other States of the Germanic Confederation;" but, by giving their advice and consent to this provision, the Senate have not authorized the introduction of any new stipulation in the Declaration which is to have this effect.

Any such stipulation would necessarily create the necessity above mentioned; and in regard to this particular stipulation,—which would introduce an entirely new feature in our reciprocity treaties,—it is more than questionable whether the consent of the Senate would be given to it. In my despatch of the 12th of August last, I adverted to "unexpected difficulties and delays" which the Treaty had encountered in that Body, and stated that "a portion of the Senators are opposed to Treaties of reciprocity, so far as our indirect trade is concerned." This opposition has manifested itself so very strongly and decidedly as to render it quite problematical how long our Act of 24th May, 1828, will be allowed to remain in force. Should it be repealed, those States which are now enjoying the advantages offered by it will of course lose them; and they could be recovered only by means of a Treaty requiring the consent of two-thirds of the Senate. This consideration, if any value be attached to these advantages, cannot fail to have due weight with those States of the Germanic Confederation which have now the opportunity of placing them at once on the secure basis afforded by the 12th Article of the present Treaty.

The form of Declaration transmitted to you implies, as will be perceived, that the disposition of the Government making it has been previously made known to you. This fact might appear in the shape of a Protocol, stating that the Treaty between the United States and Hanover having been communicated to the Government of Oldenburg, &c., it had seen fit to avail itself of the privilege thereby secured. A form for this Protocol will be found among the papers herein enclosed.

They comprise, also, a Special Power to exchange the Declaration with Oldenburg and the two Mecklenburgs, together

with Letters of Credence to the Minister of Foreign Affairs of those States respectively.

So soon as the business of exchanging these declarations shall have been brought to a close, you are requested to return to this City, bringing with you the exchange copy of the Treaty. If, contrary to expectation, any hesitation should be evinced by either of the three Governments, in availing itself of the stipulation which it contains in their favor, you will not allow this to delay you beyond what you may deem a reasonable time for proper action on the subject.

The enclosed letter of credit on Messrs: Baring, Brothers & Co. for six hundred dollars, will, it is supposed, provide you with all necessary funds until your return, when your account will be settled at the rate of eight dollars per diem as your compensation, and your necessary personal expenses, during the two periods in which you shall have been actually engaged in the public service: the first of these commencing with the 27th of March last, the date of your letter of instructions, and ending on the 16th September, the date of your last despatch; and the second commencing on the day when this despatch shall come to hand.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

FORM OF DECLARATION.

Whereas a Treaty of Navigation and Commerce between the United States of America and His Majesty the King of Hanover, was concluded at Hanover on the 10th day of June, last, by the Plenipotentiaries of the contracting parties, and was subsequently duly ratified on the part of both Governments;

And whereas by the terms of the twelfth article of the same "The United States agree to extend all the advantages and privileges contained in the stipulations of the present Treaty to one or more of the other States of the Germanic Confederation which may wish to accede to them, by means of an official exchange of declarations; provided, that such State or States shall confer similar favors upon the said United States to those conferred by the Kingdom of Hanover, and observe and be subject to the same conditions, stipulations, and obligations;"

And whereas the Government of _____ has signified its desire to accede to the said Treaty, and to all the stipulations and provisions therein contained, so far as the same are or may be applicable to the two countries, and to become a party thereto:—that is to say—to all the said stipulations and provisions, excepting only those relating to the Stade and the Wesertolls, in which the Government of _____ has no interest, and over which it has no control:

Now, therefore, the Undersigned, A. D. Mann, Special Agent on the part of the United States, and on the part of have this day signed in duplicate, and have exchanged, this Declaration of the accession—(hereby agreed to on the part of the United States)—of to the Treaty aforesaid; the effect of which accession and agreement is hereby declared to be, to establish the said Treaty, between the High Parties to this Declaration, as fully and perfectly, to all intents and purposes, as if all the provisions therein contained, excepting as above excepted, had been recited word for word in a separate Treaty, concluded and ratified between them in the ordinary form.

In witness whereof, the above named Plenipotentiaries have hereto affixed their names and seals.

Done at this day of 1847.

•
FORM OF PROTOCOL.

The Treaty of Navigation and Commerce between the United States and the Kingdom of Hanover, concluded on the 10th day of June, 1846, and since duly ratified by both parties, having been communicated to Minister of Foreign Affairs of to be laid before his Government, in order that it might take into consideration the expediency of availing itself of the 12th Article of said Treaty by becoming a party to the same; and the Government of desirous of strengthening the bonds of friendship and good understanding which so happily subsist between the two Countries, and like the Government of Hanover to use every means in its power to extend the commercial relations between Germany and the United States, having, &c.

TO THE PRESIDENT.¹

[January 11, 1847.]

TO THE PRESIDENT OF THE UNITED STATES.

SIR:

The Secretary of State, to whom was referred the Resolution of the Senate of the 22d ultimo, requesting the President "to communicate confidentially to the Senate such parts of the correspondence with the Government of New Granada by our diplomatic agents resident there, as well as the instructions to those agents, as will show the nature of the negotiation of the Treaty of Commerce made with that Republic on the 20th day of December, 1844," has the honor to lay before the President

¹MSS. Department of State, Report Book, VI. 226. This report was transmitted by President Polk to the Senate, in executive session, Jan. 11, 1847. The message, but not the report, is printed in Senate Executive Journal, VII. 180.

the papers mentioned in the accompanying list, which are believed to be sufficient to subserve the purpose referred to in the Resolution.

Respectfully submitted,

JAMES BUCHANAN.

DEPARTMENT OF STATE,
WASHINGTON, 11th Jan., 1847.

TO MR. HARGOUS.¹

DEPARTMENT OF STATE,
WASHINGTON, January 12, 1847.

P. A. HARGOUS, ESQR.
(Washington)

SIR:

I have to acknowledge the receipt of your letter of the 9th instant, accompanied by the protest of L. L. Hargous before the Consul of the United States at the city of Mexico, against the capture of the steamers Petrita and Tabasquena, and boats Martin and Shallow, by the naval forces of the United States in the gulf of Mexico. Mr. L. L. Hargous requests that these vessels may be restored to him on the ground that they were his property, or if required for the use of the United States, that compensation therefor may be awarded to him.

In reply, I have to inform you, that it belongs not to this Department to interfere, in any way whatever, with cases of this nature. It is the exclusive province of the courts of the United States to decide upon the legality of captures made by our naval forces in time of war. Before those courts, Mr. Hargous has the right, when the prizes are sent in for condemnation, possessed by every individual who considers himself grieved by a capture, to contest its validity—and should the circumstances of the case prove such as to prevent a resort to this remedy, it belongs to Congress alone to consider the question whether they constitute an equitable title to indemnification.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 160.

TO MR. LARKIN.¹

DEPARTMENT OF STATE

WASHINGTON January 13th 1847.

THOMAS O. LARKIN ESQRE.

late U. S. Consul,
Monterey.

SIR,

Your despatches, numbered 46, 48, 49, 50 & 52, & four without number, dated 22nd, 23rd, & 27th of August & 22nd of September last, have been received. Nos. 43, 44, 45, 47 & 51 have not yet come to hand. Of these, together with those specified in my letter of the 14th July, viz. Nos. 14, 15, 17, 19 & 40, I will thank you to furnish duplicates as early as practicable.

In your despatch, under date the 27th of August last, you state that our conquest of California being completed, your "Official capacity as U. S. Consul has expired," & after tendering your services in any way which may be conducive to the interest of our cause in that Country, you express the hope that "in the mean time until our relations with Mexico are fully settled & understood by Treaty, securing California to the Union, you may be continued in your confidential Agency."

I thank you for this offer of your services, & have determined, that under all the circumstances of the case, you shall continue, at least for the present, as Confidential Agent, in the Californias.

Your appointment can only be continued on the principle that those Provinces having not yet been ceded to us by Treaty, nor our possession of them recognized by Act of Congress, are yet in such a condition under the law of Nations, that I may use the contingent fund for foreign intercourse in paying your per diem & expenses. Your services in this character have heretofore been valuable & are justly appreciated; and they may be of great consequence hereafter. From the fact that the Californias are yet considered foreign territory, so far as to enable me to continue your Agency, you are not to infer, that the President contemplates any contingency in which they shall ever be surrendered to Mexico.

I regret to inform you that of the two drafts to which you refer in your Despatch of the 22nd of August last, the first for

¹ MSS. Department of State, Despatches to Consuls, XI. 525.

\$1,200 in favor of William M. Rogers has only been paid. As soon as your account shall be filed, with vouchers in support of it, where these can be obtained in accordance with your instructions, the remaining draft shall be honored. The holder of it has received notice to this effect. I have known no instance in which Clerk hire has been allowed to a confidential Agent, though I do not say this may not be done to a limited amount, under special circumstances; nor can I consistently with the rules of the Department allow you, out of the contingent fund for foreign intercourse, the expense of Couriers properly chargeable to the Navy Department.

The 4th Section of the Act entitled "An Act making appropriations for the Naval service for the fiscal year ending the thirteenth day of June, eighteen hundred and forty five," provides as follows, "That no person shall be employed or continued abroad, to receive and pay money for the use of the naval service on foreign stations whether under contract or otherwise, or to perform the duties usually performed by navy agents, who has not been or shall not be appointed by and with the advice and consent of the Senate: Provided, That this shall not apply to the disbursement of any sum now in the hands of any person heretofore employed for such purposes." Under this provision the Secretary of the Navy has determined (I think correctly) that Commodore Stockton did not possess the power to appoint you Navy Agent. Your services will however be employed, as I am informed by the Secretary, when necessary for the accommodation of the Navy on the North West Coast of the Pacific, and will be compensated as in other similar cases. His instructions to the Naval Commander on that coast are explicit on this subject.

Your despatch No. 40 of which you desire a copy has never been received at this Department.

I am, Sir,

Very respectfully &c.

JAMES BUCHANAN.

TO MR. LEWIS.¹

WASHINGTON, 14 January 1847.

MY DEAR SIR:

I have received your favor of the 14th instant and shall ever feel proud to have been a member of the Bar of Lancaster County. I rejoice that you have determined to devote your time and talents to the instruction of young gentlemen destined for the profession. In no other sphere can you be more useful; and with your well known energy in whatever you undertake, you cannot fail to prove successful.

The provision of the charter of the Franklin College vacating the seats of those trustees who have ceased to reside in the State for the period of a year would, in my opinion, deprive me of this office. It is most certain that I intend to return to the State and to lay my bones in my native earth should God spare my life; but it can hardly be said, with any regard to the fact, that I now reside in Pennsylvania. I have not lost my citizenship; but surely I now reside in this city.

In the session of 1823-4, a question came before the House of Representatives perhaps involving this point. John Bailey of Massachusetts whilst a clerk in this Department was elected a member of Congress from one of the Districts of that State. His election was contested on the ground that he was not, in the language of the Federal Constitution, "when elected," "*an inhabitant of that State*" in which he was chosen. The decision was against his right to a seat by a vote of 125 to 55. The most distinguished lawyers of the House voted in the majority. Among these were the late Judge Barbour, Mr. M'Lane, and Mr. Webster. My own humble name is also recorded among the 125.

I know that Judge Grundy, considering it necessary to the validity of his last election to the Senate, went from this city to Tennessee and previously made an actual change of his residence. On the other hand Mr. Woodbury was elected to the Senate from New Hampshire, whilst his residence was in Washington, and he was admitted to take his seat without question. Still I know that the opinion of many Senators was against it; and as

¹ An extract from this letter is given in the Life of Chief Justice Ellis Lewis, 1798-1871, of the First Elective Supreme Court of Pennsylvania, by Burton Alva Konkle (Champion & Co., 1305 Walnut St., Philadelphia, Pa.). For the full text of the letter I am indebted to the courtesy of Mr. Konkle.

the point was not raised, it was not decided. I have no time to re-examine the question and therefore my ancient opinion remains unchanged.

With my kindest regards for Mrs. Lewis, I remain

Yours very respectfully

JAMES BUCHANAN.

HON: ELLIS LEWIS.

P. S. Can you draw a distinction between "inhabitant" and "resident"? Can I be an inhabitant of Washington and a resident of Lancaster? I may be wrong in my opinion, and should be glad to be enlightened.

TO THE MEXICAN MINISTER OF FOREIGN RELATIONS.¹

DEPARTMENT OF STATE,

WASHINGTON, 18th January, 1847.

SIR: The President of the United States has instructed me to submit to you a more specific proposition than that contained in my last overture of July 27, 1846, for the purpose of terminating the present unhappy war between the two countries. He has determined to resort to every honorable means to restore the blessings of peace between the sister Republics. The first wish of his heart is to conclude such a Treaty of Peace with the Republic of Mexico as shall secure and perpetuate a sincere and cordial friendship between the parties. It is peculiarly the interest and ought to be the desire of the two most powerful Republics in the world to cherish sentiments of mutual respect and kindness for each other. In this spirit, he desires that Mexico may be a great, a prosperous and a free Republic. At peace with each other and cultivating a commerce equally advantageous to both, we may justly look forward to a long career of mutual benefits which will bind our Republics together in bonds of friendship which cannot be broken. Instead of enemies, we desire to consider the Mexicans as brothers.

Animated by such sentiments the President has determined to make a renewed overture for peace to the Mexican Govern-

¹ S. Ex. Doc. 1, 30 Cong. 1 Sess. 36-37; H. Ex. Doc. 8, 30 Cong. 1 Sess. 36-37; MS. Communications to Foreign Sovereigns and States, III. 26.

ment. Although this may be regarded by the world as too great a concession to Mexico, yet he is willing to subject himself to this reproach in the hope that his offer may inspire corresponding sentiments in the minds of a brave and patriotic people.

He has therefore directed me to propose to Your Excellency that he will immediately despatch either to the Havana or to Jalapa, as the Mexican Government may prefer, one or more of our most distinguished citizens as Commissioners, clothed with full powers to conclude a Treaty of Peace with similar Commissioners on the part of Mexico, as soon as he shall be officially informed that the Mexican Government will appoint such Commissioners. Should the Mexican Government, for the sake of more speedily terminating the war, magnanimously adopt the initiative and first appoint Commissioners, the President will then, as soon as this fact shall be made known to him, without a moment's delay, appoint Commissioners on the part of the United States.

The Commissioners on our part will be invested with the discretionary power to suspend hostilities and raise existing blockades immediately after they shall have met the Mexican Commissioners either at the Havana or Jalapa.

I embrace this occasion to offer to Your Excellency the assurance of my most distinguished consideration.

JAMES BUCHANAN,
Secretary of State.

TO HIS EXCELLENCY, THE MINISTER OF FOREIGN RELATIONS
OF THE MEXICAN REPUBLIC.

TO MR. WOODBRIDGE.¹

DEPARTMENT OF STATE,
WASHINGTON, January 18, 1847.

HON. WILLIAM WOODBRIDGE
(U. S. Senate.)

SIR:

Your letter of the 15th instant has been duly received. I have the honor to state, in reply, that the sum of \$20,000 appropriated at the last session of Congress "for completing the

¹ MSS. Department of State, 36 Domestic Letters, 165.

maps, specifications, and astronomical computations of the line of boundary between the United States and the British provinces, heretofore run and established, or run and marked, *by the joint commissioners under the treaty of Washington*, was asked for, in order to meet expenditures on the American side of the commission, appointed in accordance with the provisions of the sixth article of that instrument. The particular portion of the boundary therein referred to is that described in the 1st article of the same treaty, viz.: from the monument at the source of the St. Croix to the point at which it first strikes the river St. Lawrence—a portion of the line which does not touch the state of Michigan.

The commission under the Treaty of Washington has not yet made the joint report directed by the sixth article, and consequently it would have been impossible for this Department—even if the necessary funds had been specifically appropriated for the expenses incident to preparing them—to have “transmitted to the respective states whose boundaries are affected thereby, authentic copies” of the maps, specifications, &c., intended to accompany such report.

A misunderstanding has prevailed in regard to the object for which the appropriation relating to the Treaty of Washington was needed, and consequently the amendment engrafted upon that appropriation in the manner explained by you has failed to effect its intended purpose.

Mr. Wergman of Baltimore, the Transportation Agent of this Department, has been informed, that the Governor of Michigan has not received the copies of the laws of the last session intended for that state. And he has been desired to ascertain how they have miscarried, and to cause them to be delivered, as directed.

I am, Sir, Very respectfully,

Your obedient servant,

JAMES BUCHANAN.

(*Private separate note.*) If Mr. Woodbridge can at any time make it convenient to call at this Department, the present state of the principal subject referred to in his letter will be explained to him in detail.

TO MR. BANCROFT.¹

(No. 12.)

DEPARTMENT OF STATE,

WASHINGTON, 28th Jany., 1847.

GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

You will receive, herewith, the copy of a letter, signed L. Rumsey, and dated the 14th of December last, which has been recently transmitted to this Department by your immediate predecessor in the United States Legation at London, to whom it is addressed.

Considering it probable that the MS. papers of Franklin may contain important and interesting information which would be useful here, and that you could hardly occupy a few leisure hours more agreeably to yourself than in making an examination of the collection referred to, permit me to recommend the subject of Mr. Rumsey's note to your attention. If an inspection of the documents shall convince you that they are genuine and valuable, it will be well to ascertain the price at which the owner is willing to sell the whole collection, and report the result of your inquiries to this Department.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO A. H. EVERETT.²

No. 9.

DEPARTMENT OF STATE,

WASHINGTON, 28th January, 1847.

A. H. EVERETT, Esq.

&c. &c. &c.

SIR:

The appointment made by Commodore Biddle, on the 15th April last, of Dr. Peter Parker, as Chargé d'Affaires of the United States, *ad interim*, was quite satisfactory to the Department. Upon a careful examination of his proceedings in that character, so far as they have come to my knowledge, I find nothing to condemn and much to approve. I entirely concur in

¹ MSS. Department of State, Instructions, Great Britain, XV. 343.² MSS. Department of State, Instructions, China, I. 38.

opinion with the American residents in Canton, that, on the occasion of the dangerous riot of the 8th July last, his conduct deserves warm commendation. Every precaution which was proper had been used before a resort to force. The Chinese authorities had been appealed to for protection; but this appeal was made in vain. The only remaining alternative seems to have been either to act upon the principles of the great law of self-defence, and repel the rioters by force, or patiently to look on and witness the destruction of the foreign factories and the murder of their inmates. Still, our citizens in China ought to be extremely cautious and avoid giving offence to this excitable, ignorant, and jealous population. Their good will should be cultivated; and the Americans ought to distinguish themselves for their civility and prudence, as they have already done by their firmness in repelling the rioters.

You ought to urge a strict observance of the agreement entered into on the 12th July, 1844, between Dr. Parker and Hwang Ngantung. Had the regulations then established been faithfully carried into effect by the Chinese authorities, it is pretty evident that the riot never would have occurred.

Dr. Parker asks for instructions in case of the occurrence of another riot. These it is impossible to give at such a distance from the scene of action. The conduct proper to be observed must depend upon the peculiar circumstances of each case; and those on the spot are alone competent to judge what is proper to be done. I would observe, however, that the injunctions of the 19th article of the treaty should be strictly observed; and, whenever a riot shall be apprehended, *a requisition ought to be made by the Consul*, on "the local officers," for "a military force to disperse the rioters."

In his despatch of the 18th July, 1846, Dr. Parker inquires: "Will this Government be held responsible for the losses thus sustained (by a mob), without a treaty stipulation to that effect, except by implication?" It would be difficult to lay down any general rule upon this subject. The 19th article of the treaty stipulates, in regard to citizens of the United States, that "if their dwellings or property be threatened or attacked by mobs, incendiaries, or other violent or lawless persons, the local officers, on requisition of the Consul, will immediately despatch a military force to disperse the rioters, and will apprehend the guilty individuals, and punish them with the utmost rigor of the law." Now, it appears to me to be clear that if, after such a requisition

by the Consul, the local officers should refuse or neglect immediately to despatch a military force to disperse the rioters, the Chinese Government would be responsible for all the injuries resulting from this neglect or refusal. If the property of American citizens should be destroyed in consequence of a failure on the part of the "local officers" to perform this treaty obligation, the Chinese Government would be bound to repair the loss. The precedent to which Dr. Parker refers, in his despatch No. 4, of the payment of \$46,000 to four British merchants for losses sustained by a riot, seems to be in point. It is certain, that whatever rule may be adopted in such cases by the Chinese Government in favor of British subjects, we shall require the application of a similar rule in favor of citizens of the United States.

It is evident that the Chinese authorities have resorted to subterfuges for the purpose of relieving themselves from the performance of the 17th article of the treaty. It would seem, however, from Dr. Parker's despatches, that this has been occasioned at least as much by the turbulent and unruly spirit of the Chinese and their hatred of foreigners, as by the reluctance of the local authorities to perform their duty. Whilst you should insist upon a strict observance of this article of the treaty, policy requires that you should do this with a firm moderation. It is to be hoped that time and experience may correct the prejudices of the people and remove their objections to the residence of American citizens amongst them. It is more than probable that the local authorities are nearly as much embarrassed on this account as our citizens who desire to obtain places of abode and business. This whole subject, however, must be left to your discretion. On the spot, you will be far better able to judge what ought to be done to secure a faithful observance of the treaty, than it is possible for any person so remote as myself from that strange country.

Without referring to particulars, it is apparent from Dr. Parker's despatches that disputes and difficulties must continue to arise with the Chinese until the limits shall be defined, under the last clause of the seventeenth article of the treaty, at each of the five ports, "beyond which it shall not be lawful for citizens of the United States to go." I would, therefore, invoke your immediate attention to this subject.

You will perceive from a report made by this Department to the House of Representatives on the 14th December last, on our Consular System, (of which I send you a copy,) that I have

urged the necessity of making a provision required by the treaty for the trial and punishment of crimes committed by American citizens in China. The committee to which it was referred have reported a bill for this purpose, of which I also transmit you a copy. The Chairman, Mr. Campbell, of New York, entertains strong hopes that it will pass both Houses and become a law.

Dr. Parker, in his despatch No. 1, has, in terms of great delicacy, presented a claim for services rendered by him "at the request of the successive Consuls, as well as American merchants, in translating their correspondence with this (the Chinese) Government, and acting as interpreter on numerous occasions of personal interviews with the Chinese officers." He has, however, omitted to forward an account and to state his claim in the only manner which would be likely to insure an appropriation by Congress for its payment. I would advise that he should do this without delay; and your approbation of the claim might facilitate its passage. Such account accompanied by a memorial from himself to Congress might secure the passage of a bill for his relief.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,

WASHINGTON, January 29, 1847.

BENJAMIN F. BUTLER, Esq.

(New York.)

SIR:

You are doubtless aware that the counsel of Metzger have applied to the Supreme court for a writ of Habeas Corpus. The hearing has been postponed until this day week. In the meantime the Attorney General wishes me to obtain a copy of the opinion of Judge Betts, together with a note of the authorities which you used on the argument. I would, therefore, be obliged to you, to forward them to me as soon as you can conveniently.

I am &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 173. The case here referred to is that reported in Matter of Metzger, 5 Howard, 176.

TO MR. VINTON.¹

DEPARTMENT OF STATE,

WASHINGTON, January 30, 1847.

HON. SAMUEL F. VINTON,
(House of Representatives.)

SIR:

I have the honor to acknowledge the receipt of your letter of the 25th instant, stating that "the Committee of Ways and Means have directed (you) to take charge of a resolution of the House of Representatives, on the subject of allowing compensation to the clerks of the District courts of the United States for labor performed by them in making out returns exhibiting the operations of the late bankrupt act," and requesting to be informed "what amount of money will cover their reasonable claims."

Upon referring to the "Series of Extracts" from the letters of the clerks of court, which accompanied the communication made by this Department to the House of Representatives, under date the 5th August last (House document No. 223, 1st session, 29th Congress) it will be perceived that the compensation claimed in the several cases is very various, ranging from *four* cents per case to *two hundred and thirty-four* cents per case. The charge at the first of these rates is made by Aurelian Conkling, Deputy clerk for the District court for the northern district of New York, to whose letters (pp. 33 and 39 of the document) I will beg to refer you. The charge at the second of the above mentioned rates is made by William Field, clerk of the district court for the district of Arkansas; who, it will be perceived (p. 41) states, that he has had his account "certified by the district judge." Hence it is to be presumed that Mr. Field has "charged according to the tax bill in this district," as the clerk for the district of New Jersey (doc. p. 38) states that he has done; so that the government is charged for the whole number of cases, at the same rate as would be charged in "a bill made to any individual for the same service," in a single instance. The charge thus made by the clerk of the New Jersey district will be seen to be at the rate of *one dollar and forty cents* per case, which, he states, would be the fee "under rules."

Between the above mentioned extremes, the rates, as will

¹ MSS. Department of State, 36 Domestic Letters, 172.

be seen from the enclosed table, range from nineteen cents per case to sixty-seven cents per case. In the letter (doc. p. 43) of Mr. S. E. Sprague, clerk of the district court for Massachusetts, it is stated, "that the sum of one thousand dollars is not deemed more than a just compensation for this service"—and the same opinion is expressed in the certificate given by the judge of that court, the Hon. Peleg Sprague. The number of cases reported from that court being 3,389, this charge is at the rate of about thirty cents per case, very nearly.

It will be perceived (doc. p. 40) that Mr. Dickerson, the clerk of the New Jersey district, says: "It seems to me that it would be well to fix some amount as the compensation to clerks for each separate search of papers, so that the pay may be equally divided, *pro rata*." The correctness of this suggestion I see no reason to doubt: for, so far as one can judge from the nature of the subject, and from the statements made in regard to the amount of labor involved in preparing these returns, the average on every hundred cases may be taken to have been about the same. Those who have charged lowest do not appear by any means to have taken the least pains. The highest charges are seen to be based upon the ordinary fees of office, charged in individual instances. Should these charges be allowed, justice to those who have taken a different standard, by which to estimate the compensation which they should claim of the Government, would seem to require that the same advantage be extended to them.

The cases reported upon in the returns communicated to the House at the last session amounted to 33,739. Those embraced in the returns since received, and which will be communicated during the present session, amount to 6,551. This makes an aggregate of 40,290 cases, for which compensation is to be provided, should the *pro rata* rule be adopted. The amount of the appropriation needed for this object will, of course, depend upon the rate of compensation which the Committee, with the knowledge of the subject afforded by the document referred to, see fit to adopt.

I am, &c.

JAMES BUCHANAN.

TO MR. WALKER.¹

DEPARTMENT OF STATE,

WASHINGTON, February 2d, 1847.

HON. ROBERT J. WALKER

(Secretary of the Treasury)

SIR:

I have the honor to transmit herewith a translation of a note addressed to this Department by Baron von Gerolt, the Minister Resident of Prussia, claiming restitution of certain duties levied under the 25th section of the Tariff act of 1842, upon merchandise of Prussian origin, imported into the United States. The return of these duties, as will be perceived, is claimed by Baron Gerolt, under instructions from his Government, on the ground that the case is identical with that of certain importations of English commodities, the excess of duties upon which has been refunded under the act of Congress of the 8th day of May last.²

I am &c.

JAMES BUCHANAN.

TO MR. WISE.³

(No. 30.)

DEPARTMENT OF STATE,

WASHINGTON, 2nd February, 1847.

SIR: I transmit herewith copies of the notes which have passed between Mr. Lisboa and myself in relation to the imprisonment of Lieutenant Davis and the three sailors of the United States ship Saratoga by the Police Guard at Rio de Janeiro on the 31st of October, last. From these you will perceive that the serious controversy with the Brazilian Government arising out of this act has been amicably and honorably adjusted. It would be useless to detail the steps which led to this arrangement. You will perceive that although Mr.

¹ MSS. Department of State, 36 Domestic Letters, 175.² For the act of May 8, 1846, authorizing the refund of duties on certain importations of British commodities, see 9 Stat. 8. By the second section of the act of August 8, 1846, 9 Stat. 84, the Secretary of the Treasury was generally authorized to refund all duties illegally exacted on importations since March 3, 1833.³ MSS. Department of State, Instructions, Brazil, XV. 136. Published, except the second paragraph, in S. Ex. Doc. 29, 30 Cong. 1 Sess. 133.

Lisboa's note is dated on the 21st January, it was not delivered by him to me until yesterday. In the meantime we had several conferences which resulted in so changing its original form and character as to render its terms satisfactory to the President.

Mr. Lisboa, who had conducted himself with much propriety throughout the whole affair, is anxious that his note should not be published at Rio, apprehending the strictures which it might occasion in the Legislative Chambers. I informed him that I would request you not to publish the note and to confine yourself to the declaration that the controversy had been settled after explanations from the Brazilian Government, through their Minister at Washington, which were entirely satisfactory to the Government of the United States.

The affair, when it first transpired in this country, produced much sensation in our commercial cities. The commercial community are always sensibly alive to every occurrence which may threaten injury to any branch of our foreign trade; and that with Brazil is of great importance to the United States.

The President has instructed me to say to you that he has been gratified to see that your course in respect to Lieutenant Davis and the imprisoned seamen has been marked by that energy and zeal which the diplomatic agents of the United States abroad are always expected to exhibit when their fellow citizens have been wronged or the flag of their country has been insulted. And further, that he relies with confidence, the "amende honorable" having been made by Brazil, that your conduct towards the Brazilian authorities will be guided by a desire to restore harmony and promote friendship between the two countries, whose mutual interests are so deeply identified with each other.

Your despatches to No. 54, inclusive, have been received.

I am, Sir, very respectfully, Your obedient servant,

JAMES BUCHANAN.

To HENRY A. WISE, Esq.,
&c., &c., &c.

TO MR. LISBOA.¹

DEPARTMENT OF STATE,
WASHINGTON, 2nd February, 1847.

TO THE CHEVALIER GASPAR JOSÉ DE LISBOA,
&c., &c., &c.

SIR: I have had the honor yesterday to receive your note of the 21st ultimo, in which, referring to the recent imprisonment of Lieutenant Davis and the three sailors of the United States ship Saratoga by the City authorities of Rio de Janeiro on the 31st of October, last, you give me, in behalf of your Government, the solemn assurance that no "offence was or could have been intended" by this act "to the dignity of the flag of a nation with whom it is the earnest desire of Brazil to cultivate the most friendly relations;" that the Brazilian Government "has regretted extremely this disagreeable occurrence, and will adopt the means proper to prevent similar occurrences hereafter."

Your note has been submitted to the President, who has instructed me to inform you, that he is entirely satisfied with this frank and honorable explanation; and that the whole occurrence, so far as the United States are concerned, shall henceforward be buried in oblivion.

I am further instructed to say, that the President most cordially reciprocates the friendly feelings which you have expressed on the part of the Brazilian Government, and that it is his earnest desire, as it shall be his constant endeavor, to strengthen the bonds of friendship which now so happily unite the two nations.

I cannot suffer the occasion to pass without expressing my own gratification at the manner in which you have treated this delicate affair, which, in less able and practised hands, might have impaired the cherished friendship, if it had not endangered the peace, between the two nations.

I avail myself of this occasion to offer you renewed assurances of my very high consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 37. Printed, with some inaccuracies, in S. Ex. Doc. 29, 30 Cong. 1 Sess. 135.

TO MR. SHIELDS.¹

(No. 13.)

DEPARTMENT OF STATE,

WASHINGTON, 3d February, 1847.

To B. G. SHIELDS, ESQUIRE,
&c. &c. &c.

SIR:

Mr. Oliver Taylor, the claimant in the case of the fifty barrels of flour seized and condemned at Maracaibo in 1839 for an alleged violation of the fiscal regulations of Venezuela, has recently made application to the Department in person for an instruction to you upon the subject. I presume that there never could have been any just and legal grounds for the condemnation, and that the only thing which may hitherto have retarded or prevented the interference of this Government in behalf of the claimant, was a doubt as to whether he had exercised due diligence in appealing from the decision of the primary Court. It may however be averred that the statement of the case contained in your note to Mr. Manrique of the 9th of September, last, removes all doubt on that point, and presents the whole subject in a much clearer light than it had previously been offered to the Department. It does not appear that the Venezuelan Minister for Foreign Affairs had replied to that note. If, therefore, you should not have received an answer from him before this letter reaches you, materially controverting the facts as set forth in your note, you will be fully warranted in demanding, in the name of your government, indemnification for Mr. Taylor, which course you are hereby instructed to take.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Venezuela, I. 61.

TO MR. DAVIS.¹

DEPARTMENT OF STATE,

WASHINGTON, February 5, 1847.

HON. JOHN W. DAVIS,

(Speaker of the House of Representatives)

SIR:

I have received your note of inquiry of the 2d instant, relating to the memorial now in your hands, addressed to the House of Representatives of the United States, by John A. Barry, Esq., a British subject. The general question as to the right of an alien directly to memorialize Congress is one which necessarily depends upon the rules and practice of the two Houses respectively. In the present instance, if the object of the memorialist be to claim redress from our Government for an alleged injury suffered at the hands of any of its officers or agents, the presentation of such a petition would constitute a departure from the established and proper course in cases of this kind. Agreeably to this, the consideration of the grievance, in the first instance at least, would belong either to the Judiciary or the Executive of the Government of the supposed wrong-doer; and if this recourse failed, the case would then properly constitute a subject of representation from the complainant's Government through the ordinary diplomatic channels.

I am, &c.

JAMES BUCHANAN.

TO MR. SLIDELL.²

(No. 9.)

DEPARTMENT OF STATE,

WASHINGTON, 9th February, 1847.

To JOHN SLIDELL, ESQUIRE,

&c. &c. &c.

SIR:

I have received your despatch of the 26th ultimo, tendering your resignation of the appointment of Envoy Extraordinary and Minister Plenipotentiary to the Mexican Republic, and have submitted the same to the President.

In answer, I am directed by him to inform you that he

¹ MSS. Department of State, 36 Domestic Letters, 178.² MSS. Department of State, Instructions, Mexico, XVI. 45.

will no longer resist your own wishes, and that your resignation is accordingly accepted. He cannot part from you, however, without expressing his obligations for the manner in which, although at the sacrifice of your private interests, you complied with his earnest request to retain your appointment and to hold yourself in readiness to return to Mexico, should an opportunity offer within a reasonable time for opening negotiations with the Government of that Republic. This conduct deserves special commendation from the fact that it was wholly disinterested, because whilst acceding to his wishes, you declared you would receive no compensation during the period you should be thus kept in suspense.

I am also instructed by the President to reiterate the assurance that your entire conduct whilst employed upon the mission voluntarily tendered to you, was marked with prudence, firmness, and signal ability under circumstances of uncommon difficulty, and has received his cordial approbation. In all these sentiments of the President it affords me great pleasure to say that I heartily concur.

Your obedient servant,

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK

ON A TREATY WITH NEW GRANADA.¹

[February 10, 1847.]

TO THE SENATE OF THE UNITED STATES:

I transmit to the Senate, for their advice with regard to its ratification, "a general treaty of peace, amity, navigation, and commerce, between the United States of America and the republic of New Granada," concluded at Bogota on the 12th December last, by Benjamin A. Bidlack, chargé d'affaires of the United States, on their part, and by Manuel Maria Mallarino, Secretary of State and Foreign Relations, on the part of that republic.

It will be perceived by the 35th article of this treaty, that New Granada proposes to guaranty to the government and citizens of the United States the right of passage across the isthmus of Panama, over the natural roads, and over any canal or railroad which may be constructed to unite the two seas, on condition that the United States shall make a similar guaranty to New Granada of the neutrality of this portion of her territory, and her sovereignty over the same.

The reasons which caused the insertion of this important stipulation in the treaty, will be fully made known to the Senate by the accompanying documents. From these, it will appear that our chargé d'affaires acted, in

¹ Senate Executive Journal, VII. 191-193; reprinted in S. Doc. 16, 58 Cong. 1 Sess. 13-16.

this particular, upon his own responsibility, and without instructions. Under such circumstances, it became my duty to decide whether I would submit the treaty to the Senate; and, after mature consideration, I have determined to adopt this course.

The importance of this concession to the commercial and political interests of the United States cannot easily be overrated. The route by the isthmus of Panama is the shortest between the two oceans; and, from the information herewith communicated, it would seem to be the most practicable for a railroad or canal.

The vast advantages to our commerce which would result from such a communication, not only with the west coast of America, but with Asia and the islands of the Pacific, are too obvious to require any detail. Such a passage would relieve us from a long and dangerous navigation of more than nine thousand miles around Cape Horn, and render our communication with our own possessions on the northwest coast of America comparatively easy and speedy.

The communication across the isthmus has attracted the attention of the government of the United States ever since the independence of the South American republics. On the 3d of March, 1835, a resolution passed the Senate in the following words:

"Resolved, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the governments of other nations, and particularly with the governments of Central America and New Granada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific oceans, by the construction of a ship canal across the isthmus which connects North and South America; and of securing forever, by such stipulations, the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established, to compensate the capitalists who may engage in such undertaking and complete the work."

No person can be more deeply sensible than myself of the danger of entangling alliances with any foreign nation. That we should avoid such alliances has become a maxim of our policy, consecrated by the most venerated names which adorn our history, and sanctioned by the unanimous voice of the American people. Our own experience has taught us the wisdom of this maxim in the only instance—that of the guaranty to France of her American possessions—in which we have ever entered into such an alliance. If, therefore, the very peculiar circumstances of the present case do not greatly impair, if not altogether destroy, the force of this objection, then we ought not to enter into the stipulation, whatever may be its advantages. The general considerations which have induced me to transmit the treaty to the Senate, for their advice, may be summed up in the following particulars:

1. The treaty does not propose to guaranty a territory to a foreign nation in which the United States will have no common interest with that nation. On the contrary, we are more deeply and directly interested in the subject of this guaranty than New Granada herself, or any other country.

2. The guaranty does not extend to the territories of New Granada generally, but is confined to the single province of the isthmus of Panama, where we shall acquire by the treaty a common and coextensive right of passage with herself.

3. It will constitute no alliance for any political object, but for a purely commercial purpose, in which all the navigating nations of the world have a common interest.

4. In entering into the mutual guaranties proposed by the 35th article of the treaty, neither the government of New Granada nor that of the United States has any narrow or exclusive views. The ultimate object, as presented by the Senate of the United States in their resolution to which I have already referred, is to secure to all nations the free and equal right of passage over the isthmus. If the United States, as the chief of the American nations, should first become a party to this guaranty, it cannot be doubted—indeed, it is confidently expected by the government of New Granada—that similar guaranties will be given to that republic by Great Britain and France. Should the proposition thus tendered be rejected, we may deprive the United States of the just influence which its acceptance might secure to them, and confer the glory and benefits of being first among the nations in concluding such an arrangement upon the government either of Great Britain or France. That either of these governments would embrace the offer, cannot well be doubted; because there does not appear to be any other effectual means of securing to all nations the advantages of this important passage, but the guaranty of great commercial powers that the isthmus shall be neutral territory. The interests of the world at stake are so important, that the security of this passage between the two oceans cannot be suffered to depend upon the wars and revolutions which may arise among different nations.

Besides, such a guaranty is almost indispensable to the construction of a railroad or canal across the territory. Neither sovereign States nor individuals would expend their capital in the construction of these expensive works, without some such security for their investments.

The guaranty of the sovereignty of New Granada over the isthmus is a natural consequence of the guaranty of its neutrality, and there does not seem to be any other practicable mode of securing the neutrality of this territory. New Granada would not consent to yield up this province in order that it might become a neutral State; and if she should, it is not sufficiently populous or wealthy to establish and maintain an independent sovereignty. But a civil government must exist there, in order to protect the works which shall be constructed. New Granada is a power which will not excite the jealousy of any nation. If Great Britain, France, or the United States held the sovereignty over the isthmus, other nations might apprehend that, in case of war, the government would close up the passage against the enemy; but no such fears can ever be entertained in regard to New Granada.

This treaty removes the heavy discriminating duties against us in the ports of New Granada, which have nearly destroyed our commerce and navigation with that republic, and which we have been in vain endeavoring to abolish for the last twenty years.

It may be proper, also, to call the attention of the Senate to the 25th article of the treaty, which prohibits privateering in case of war between the two republics; and also to the additional article, which nationalizes all vessels of the parties, which "shall be provided by the respective governments with a patent issued according to its laws;" and, in this particular, goes further than any of our former treaties.

JAMES K. POLK.

WASHINGTON, February 10, 1847.

TO MR. HENDERSON.¹

DEPARTMENT OF STATE,
WASHINGTON, February 12th, 1847.

HIS EXCELLENCY, PINCKNEY HENDERSON,
(Governor of Texas, Austin.)

SIR:

Your letter of the 4th January last did not reach this Department until the first instant. From the length of time which it has been on the way, it is reasonable to infer, that at its date you had not seen the President's message of December last. In that you have already perceived that New Mexico is at present in the temporary occupation of the troops of the United States, and the government over it is military in its character. It is merely such a Government as must exist under the laws of nations and of war, to preserve order and protect the rights of the inhabitants, and will cease on the conclusion of a Treaty of peace with Mexico. Nothing, therefore, can be more certain, than that this temporary Government, resulting from necessity, can never injuriously affect the right which the President believes to be justly asserted by Texas to the whole territory on this side of the Rio Grande, whenever the Mexican claim to it shall have been extinguished by Treaty. But this is a subject which more properly belongs to the legislative than to the Executive Branch of the Government.

I am &c.

JAMES BUCHANAN.

TO MR. LEWIS.²

(*Private.*)

DEPARTMENT OF STATE,
WASHINGTON, February 12, 1847.

HON. DIXON H. LEWIS,
(Senate.)

SIR:

I have received your note inquiring what necessity exists for the outfit of a Chargé des Affaires to Peru, which has passed the House of Representatives.

The necessity arises from the determination of the Presi-

¹ MSS. Department of State, 36 Domestic Letters, 183.

² MSS. Department of State, 36 Domestic Letters, 182.

dent to nominate such a Chargé to the Senate before the close of its present session. From the state of our relations with that republic, it is highly expedient that such an appointment should be made.

Such a state of feeling unfortunately exists between the Peruvian authorities & our present Chargé d'Affaires at Lima as greatly to impair, if not altogether destroy, his usefulness. Indeed that Government has formally requested his recall, in a letter addressed to this Department by their Minister of Foreign Affairs, dated on the 11th of April last, which has not yet been answered.

Meanwhile, the harbor of Callao is a port constantly visited by our vessels of war, as well as our merchant vessels; and it is essential, especially during the continuance of our war with Mexico, to have a Minister at Lima in a condition to exercise a just influence with the Peruvian Government.

I should be most happy to submit to you, or, if your health should unfortunately be such as not to enable you to visit the Department, to other gentlemen of the committee, all the papers and documents relating to the subject. To submit these to the public could do no good, and might be productive of injury to our interests.

Yours very respectfully,

JAMES BUCHANAN.

TO MR. ATHERTON.¹

DEPARTMENT OF STATE,

WASHINGTON, February 13, 1847.

HON. C. G. ATHERTON,
Senate.

SIR:

I have the honor to return herewith the two memorials communicated with your note of the 6th instant. In regard to the one relating to the services rendered by the Revd. Peter Parker, the accompanying memorandum will, it is believed, answer the purpose indicated in your note. With respect to the claim preferred by Mr. John Hogan, I beg leave to state that the papers from which a judgment of its merits is to be

¹ MSS. Department of State, Report Book, VI. 227.

formed, will be submitted to the examination of the Committee or of any of its members, at any time that it may suit their convenience to call for the purpose.

I am, Sir, &c.,

JAMES BUCHANAN.

MEMORANDUM, RELATING TO THE MEMORIAL OF THE REV. DR. PETER PARKER.

Soon after the arrival at Macao, (27th of February, 1844) of the special mission to China, Mr. Cushing found it expedient to engage the services of Dr. Parker as a Translator, &c. He continued to act in this capacity until the departure of the Commissioner, which took place in the following August. For these services an allowance was made to Dr. Parker, (\$1064.)

In connection with the new mission to China which was despatched from the United States in 1845, a commission was issued on the 15th of April of that year for Doctor Parker, as Secretary and Chinese Interpreter—his salary to be at the rate of \$2500, per annum, and to begin on the *1st of July* following.

Ill health having prevented Mr. A. H. Everett from pursuing his voyage to China, he delegated to Commodore Biddle the discharge of his duties as U. S. Commissioner in China. The Commodore arrived at Canton in the latter part of December, 1845, and continued to act as diplomatic representative of the U. States in China until the 15th of April last. On that day he addressed a letter to the High Imperial Commissioner, informing him that the charge of the affairs of the Legation had been transferred to Dr. Parker.

Dr. Parker was accordingly received as *Chargé d'Affaires ad interim*, and still continued in the exercise of his official functions at the latest dates from Canton, but has, ere this time, probably been superseded by the arrival of the American Commissioner.

Had Dr. Parker been merely an ordinary Secretary of Legation, the repeated action of Congress in analogous cases would sanction, in his case, a *pro rata* allowance of the difference between the Salary of Secretary and that of Commissioner for the period during which the duties of the latter have been discharged by him; which duties, it is but just to bear in mind, were discharged in addition to the services to the performance of which his qualifications as a linguist were necessary.

Of the nature and value of Dr. Parker's services, an opinion may be formed from the accompanying extract from Mr. Cushing's letter of 25th January, 1845, and an examination of his published correspondence.—(See Senate Document, No. 67, 28th Congress, second Session.)

The extract from Dr. Parker's own letter of 26th April, 1846, relates to a third class of services, distinct from those above touched upon.

Whatever may be the amount of compensation which the Committee shall feel disposed to recommend, it is respectfully suggested that it be expressly stated to be in full for his services as acting *Chargé d'Affaires* of the United States in China down to the time of the arrival of A. H. Everett at Canton, and for all other public services, rendered at any previous period to the Government of the U. S., or to any officer, agent, or citizen thereof, in the capacity of interpreter, translator, or otherwise.

TO THE HOUSE OF REPRESENTATIVES.¹

[February 15, 1847.]

TO THE HOUSE OF REPRESENTATIVES U. S.

The Secretary of State, in compliance with the resolution of the House of Representatives of the 9th instant, on the subject of "any letters or communications received at the Department of State on the present state, productions, trade, and commerce of the oriental nations with which the United States have not made treaties, so far as the same can be done without injury to the public interests," has the honor to transmit the accompanying paper, received at this Department from Mr. Aaron H. Palmer, of New York.

JAMES BUCHANAN.

DEPARTMENT OF STATE,
WASHINGTON, 15th February, 1847.

TO THE PORTUGUESE MINISTER.²

DEPARTMENT OF STATE,
WASHINGTON, 16th February, 1847.

THE COMMANDER,
J. C. DE FIGANIÈRE E MORAO
&c., &c., &c.

SIR: Your note of the 18th ultimo, on the subject of the excess of duties levied upon the wines of Portugal, having been submitted to the Treasury Department, I have now the honor to transmit a copy of the reply of the Secretary of the Treasury, under date of yesterday, giving assurance that the claims presented by you shall receive prompt adjustment.

I avail myself of the occasion to renew the assurance of my distinguished consideration.

JAMES BUCHANAN.

¹ H. Doc. 96, 29 Cong. 2 Sess. 1; MS. Report Book, VI. 229.² MSS. Department of State, Notes to Portugal Legation, VI. 88.

TO MR. ARCHER.¹

DEPARTMENT OF STATE,
WASHINGTON, February 16th, 1847.

HON. WILLIAM S. ARCHER,
United States Senate.

SIR:

Agreeably to your request, the memorials of John F. Mullowney, late Consul of the U. S. at Tangier, and of William M. Blackford, late Chargé d'Affaires of the U. S. to New Granada, are herewith returned.

In regard to the former I have only to say, that the facts therein set forth are correctly stated, so far as regards the cause of the detention at Gibraltar, the expense of which Mr. Mullowney asks to be reimbursed, seeing that it was brought upon him without any fault on his part, by the failure of an officer of the Government to comply with the orders which required him to convey Mr. Mullowney to Tangier. Of the amount of the expense thus incurred, this Department has not the means of judging.

With respect to Mr. Blackford's case, I beg leave to refer you to the enclosed copy of an opinion given by the Attorney General of the U. S. (Mr. Taney,) under date November 30, 1831, as showing the grounds on which the established practice of the Government in regard to "the usual quarter's salary" was deemed inapplicable to Mr. Blackford's case. A perusal of this opinion will show, that "the usual quarter's salary," although commonly called and considered, as Mr. Blackford calls and considers it, "an *infit* or return allowance," corresponding to the "*outfit*" paid to a diplomatic agent upon his entrance on a mission, is in truth of an essentially different nature. The only light in which it can properly be considered is that of *salary*. It is in fact nothing more nor less than the ordinary salary of the diplomatic agent, for that period of time, dating from the day when his representative character at the foreign court ceases, which is allowed him for settling his affairs abroad, and returning home; he being considered meanwhile as not yet discharged from the public service.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Report Book, VI. 229.

TO THE PORTUGUESE MINISTER.¹

DEPARTMENT OF STATE,
WASHINGTON, 18th February, 1847.

TO THE COMMANDER

J. C. DE FIGANIERE E MORAO,
&c., &c., &c.

SIR: Your note of the 24th ultimo, in relation to duties charged on the wines of Portugal, having been referred to the Secretary of the Treasury, I have now the honor to transmit a copy of his reply, dated yesterday, together with a copy of instructions on the subject, addressed by him, on the day previous, to the Collectors of the Customs.

I am, Sir, with great consideration,
Your obedient servant,

JAMES BUCHANAN.

TO THE PRESIDENT.²

DEPARTMENT OF STATE,
WASHINGTON, 19th February, 1847.

TO THE PRESIDENT OF THE UNITED STATES.

The Secretary of State, to whom has been referred the resolution of the Senate of the 2d inst., requesting the President to communicate to that body such information in possession of the Executive Departments in relation to the importation of foreign criminals and paupers as he may deem consistent with the public interests so to communicate, has the honor to report to the President the accompanying extracts from communications received at this Department.

Respectfully submitted.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Portugal Legation, VI. 88.

² MSS. Department of State, Report Book, VI. 230. S. Doc. 161, 29 Cong. 2 Sess. contains the message of President Polk to the Senate, February 20, 1847, in reply to a resolution of the Senate, of February 2, transmitting Mr. Buchanan's report of February 19, 1847, with communications in relation to the importation of foreign criminals and paupers. There were communications from the United States consuls at Basel, Hamburg, and Londonderry, all stating that paupers and criminals were sent in large numbers to the United States.

TO MR. DAVIS.¹

DEPARTMENT OF STATE,
WASHINGTON, February 22d, 1847.

SIR: Referring to my communication of the 5th of August last, made in pursuance of the resolution of the House of Representatives of March 25th, 1844, I have the honor to transmit, herewith, as a supplement to what was then communicated, the statements since received, being those from the clerks of the District courts of the U. States for the Districts of Vermont, Rhode Island, Western Pennsylvania, Ohio, West Tennessee, and Eastern La., showing the proceedings under the Bankrupt act, which statements are accompanied by a summary in tabular form prepared at this Department.

I am &c.

JAMES BUCHANAN.

HON. JOHN W. DAVIS,
(Speaker of the House of Rep.)

TO THE SPEAKER OF THE HOUSE.²

DEPARTMENT OF STATE,
WASHINGTON, February 22, 1847.

SIR: Agreeably to the act of March 2d, 1819, regulating passenger ships and vessels, I have the honor to communicate, herewith, tabular statements, showing the number and designation of passengers who arrived in each collection district of the United States during the year ending September 30th, last, compiled from the returns made to this Department by the Collectors, in conformity with the provisions of the said act.

I am, Sir, &c.,

JAMES BUCHANAN.

¹ H. Doc. 99, 29 Cong. 2 Sess. 1.

² H. Doc. 98, 29 Cong. 2 Sess. 1.

TO MR. MASON.¹

DEPARTMENT OF STATE,
WASHINGTON, February 22, 1847.

HON. JOHN Y. MASON,
Secretary of the Navy.

SIR:

I have held a conference to-day with Don José Rovera, the Commissioner appointed by the Provisional Government of Yucatan to proceed to this city for the purpose of re-establishing friendly and commercial relations between that state and the United States. I informed him, under instructions from the President,

1. That whilst Yucatan continued to maintain her neutrality according to her own voluntary agreement, in the existing war between Mexico and the United States, the latter had respected this neutrality and placed her commerce on the same footing with that of all other neutral states.

2. That the decree of the Extraordinary Congress of Yucatan, adopted on the 25th August last, had changed this neutrality into a state of hostility against the United States: and that therefore it became the duty of the latter to make a corresponding change in their conduct, and treat her as an enemy and not as a neutral.

3. That the present revolutionary movement of the people of Yucatan for the purpose of restoring her to her former neutral position in the war between Mexico and the United States, has not yet to our knowledge proven completely successful. The City of Merida, the capital of the state, at the date of our last authentic advices, was still in possession of the government which had sanctioned the decree of the 25th August last. The revolutionary struggle, so far as we have learned, has not yet terminated successfully for the partisans of neutrality. Under these circumstances, all that this Government can do with propriety is to instruct the officer commanding the U. S. Naval forces in the gulf of Mexico to treat Yucatan again as a neutral state, whenever he shall have received authentic information that the revolution is accomplished and the government is restored to the hands of those determined to maintain a neutral position. The officer in command must first be satisfied, however, of the

¹ MSS. Department of State, 36 Domestic Letters, 315.

real, bona fide neutrality of Yucatan; and, in case he should afterwards at any time discover that under the guise of neutrality the Yucatanese are carrying on a contraband trade and furnishing Mexico with arms and munitions of war, he will be instructed, without further orders from his government, to re-commence hostile operations.

It is the President's request that you should immediately issue instructions in conformity with the foregoing communication, which I have made verbally to Don José Rovera.

Yours very respectfully,

JAMES BUCHANAN.

FROM THE MEXICAN MINISTER OF FOREIGN RELATIONS.¹

[Translation.]

PALACE OF THE FEDERAL GOVERNMENT OF MEXICO, February 22, 1847.

SIR: Mr. Alexander Atocha has placed in my hands the note under date the 18th of January last, in which your Excellency is pleased to express the good disposition entertained by his excellency the President of the United States to have recourse to every honorable means which may put an end to the war, and renew between the two nations the friendly relations which are unfortunately interrupted.

It is painful to the Mexican Government to see disturbed the sincere friendship which it cultivated with your Republic, whose continued progress it has always admired, and whose institutions have served it as a model. Greatly to its regret has the blood been spilt of two people who ought to have lived closely united; but it has not depended upon it to avoid this misfortune. Penetrated with the benefits of peace, it has fruitlessly employed for its maintenance all the means compatible with the honor, the dignity, and the security of the nation. The question of Texas was a cover to ulterior designs, which now stand disclosed. The invasion of Mexican territory which followed is now a reality, and every day new aggressions augment the grounds for complaint. Nevertheless, his excellency the Vice President, now charged with the supreme executive power, who cherishes in his bosom the liveliest sentiments of humanity, will lend himself to the adjustment which is indicated to him, as soon as he shall conceive the hope that the incontestable rights of Mexico may be saved. The high mission with which he is charged renders it obligatory upon him to preserve the independence and the integrity of the Republic; and in the understanding that he will never agree that either the one or the other shall be lost, he will accede cheerfully to the invitation which is proffered to him, by appointing commissioners who, conjointly with those who may be chosen by his excellency the President of the United States,

¹ S. Ex. Doc. 1, 30 Cong. 1 Sess.; H. Ex. Doc. 8, 30 Cong. 1 Sess. 38-39; Cong. Globe, 30 Cong. 1 Sess., Appendix, 38-39.

shall arrange, at Havana or Jalapa, a treaty of peace and sincere friendship; but such appointment he will not make unless the raising of the blockade of our ports and the complete evacuation of the territory of the Republic by the invading forces shall be previously accepted as a preliminary condition.

Before concluding this note, his excellency the Vice President deems it indispensable to manifest the surprise which he has experienced at the apprehension expressed by your Excellency's Government, that the world might consider as an excessive concession to Mexico the step taken by it in again taking the initiative towards the negotiation of peace; for he cannot conceive the reason upon which such an imputation could rest, when all civilized nations have recognized the justice of the rights of this Republic, and the imperious necessity in which she has found herself to maintain them by arms, in opposing an invasion the least justifiable of all those known to the history of civilized nations.

I avail myself of the opportunity to offer to your Excellency the assurances of my most distinguished consideration.

JOSÉ MARIE ORTIZ MONASTERIO.

TO HIS EXCELLENCY THE SECRETARY OF STATE OF THE
UNITED STATES OF AMERICA.

PROTOCOL OF CONFERENCE.¹

DEPARTMENT OF STATE,
WASHINGTON CITY, 23 February, 1847.

The Undersigned, James Buchanan, Secretary of State of the United States, and F. de Gerolt, Minister Resident of His Majesty the King of Prussia, having met in conference this day, proceeded to take into consideration the proposition made by Mr. Gerolt, in the name of his Government, in his official note of the 8th January, 1846, to Mr. Buchanan, "that the existing Treaty between Prussia and the United States of the 1st May, 1828, may be extended to all the States of the Zoll-Verein:" and, also, the answer given by Mr. Buchanan, in his note of the 25th February, 1846, expressing the willingness of the President of the United States to accept this proposition; suggesting, at the same time, that the proposed Treaty should not be limited to a mere extension of the provisions of the existing Treaty to the States of the Zoll-Verein, but ought to embrace "such modifications of these provisions, or such additions thereto, as may be deemed by both parties conducive to the special object now in view."

Mr. Buchanan reiterated to Mr. Gerolt the assurances con-

¹ See Mr. Buchanan to Mr. Donelson, February 26, 1847, *infra*.

tained in his note of the 25th February, 1846, and proposed to the Government of Prussia and the other Governments of the Zoll-Verein the following stipulations in addition to the existing Treaty.

1. That the transit duties on products of the United States shall be abolished within the Zoll-Verein States in the same manner as these duties are to be abolished within the Kingdom of Hanover, under the 8th Article of the Treaty concluded between that Kingdom and the United States on the 10th June, 1846.

2. That the States of the Zoll-Verein, which have no seaports, shall admit Consuls of the United States within their dominions, wherever this may be deemed necessary by the Government of the United States for commercial purposes. This obligation to extend to the Prussian Provinces of the Rhine.

Mr. Gerolt promised to communicate these propositions to his Government, and to ask further instructions: but he objected to the admission of Consuls into the Rhenish Provinces.

Mr. Gerolt suggested, that the Treaty should be extended not only to the existing States of the Zoll-Verein, but to such German States as may hereafter join the association, under its present form or any other form which may be agreed upon by the parties. To this Mr. Buchanan objected, and remarked that the United States had just concluded a Treaty with Hanover: and that if such a stipulation should be inserted, Hanover might at once relieve herself from some of the obligations of this Treaty, most favorable to the United States, by becoming a party to the Zoll-Verein. Besides, the United States had Treaties with Hamburg, Bremen, and Lubeck.—Under these circumstances, the President would be unwilling to extend the proposed Treaty beyond the existing States of the Zoll-Verein. Should new States be added to it, the question in regard to them may be decided when it shall arise.

Mr. Gerolt, also, reminded Mr. Buchanan of the considerations which he had presented in his note of the 27th May, 1845, in regard to the difficulties experienced by Prussian subjects, in obtaining information of the successions and inheritances ab intestato to which they are entitled in the United States, under the 14th article of the existing Treaty: and to the necessity of establishing a just reciprocity between the laws of the respective Countries on this subject. He also referred to the answer given by Mr. Buchanan in his note of the 7th June, 1845; whereupon

Mr. Buchanan stated, that as the subject of successions and inheritances throughout the United States pertains to the Legislation of the respective States, and not to the Federal Government, no Treaty stipulation could be made, on its part, in regard to the discovery and publication of such successions and inheritances. He observed, however, that he would be willing, by a circular addressed to the Governors of the different States, where the German population chiefly resides, to request them to recommend to their respective Legislatures the passage of laws providing for the accomplishment of this object.

The conversation having been directed to the Convention concluded on the 29th January, 1845, between the United States on the one part, and Prussia and the other States of the Germanic Confederation on the other part, for the mutual delivery of criminals, fugitives from justice, Mr. Buchanan stated his objections to the third Article of that Convention, which declares that, "none of the contracting parties shall be bound to deliver up its own citizens or subjects, under the stipulations of this Convention." He said, that if this Article were omitted, the Convention would then conform to the Conventions for extradition already concluded with Great Britain and France, and would receive the approbation of the President. He further suggested, that the two Governments might agree to extend the time for the exchange of ratifications: and that if the Prussian Government would previously intimate its consent to the omission of the third Article from the Convention, then it would doubtless be amended in this manner and confirmed by the Senate of the United States: and the ratifications of the Convention, thus amended by the Senate, could afterwards be exchanged between the parties. He further expressed his willingness immediately to conclude with Mr. Gerolt a new Convention, if he possessed the requisite powers from his Government, embracing all the provisions contained in that of the 29th January, 1845, with the exception of the third Article. To this, Mr. Gerolt observed, that he had no powers to conclude such a Convention, but would submit the propositions of Mr. Buchanan to the Prussian Government for further instructions.

JAMES BUCHANAN.

FR. V. GEROLT.

TO MR. EVANS.¹

DEPARTMENT OF STATE,
WASHINGTON, February 25, 1847.

HON. GEORGE EVANS,
(Finance Committee, Senate.)

SIR:

Should the Mexican Government consent to open negotiations before the meeting of the next Congress, they might and probably would prefer to treat of peace with one or more commissioners on the part of the United States rather than with an Envoy Extraordinary and Minister Plenipotentiary, for whom an outfit and salary have already been inserted in the Civil and Diplomatic bill now before the Senate. I would, therefore, respectfully suggest to you the propriety of making the necessary appropriation to meet such a contingency, should Congress deem it expedient.

I am &c.

JAMES BUCHANAN.

TO MR. DONELSON.²

(No. 8.)

DEPARTMENT OF STATE,
WASHINGTON, 26th February, 1847.

ANDREW J. DONELSON, ESQRE.,
&c., &c., &c.

SIR:

Referring to your despatch (No. 18) of the 20th of January last, I herewith transmit the protocol of a Conference between Baron Gerolt and myself, held on the 23rd instant,³ which will not only show the precise state of the negotiation between the Governments of the United States and Prussia, relative to the proposed Treaty of Extradition between them, but will also put you in possession of particular information in respect to other important questions which have recently formed subjects of discussion between the Department and the Prussian Legation in this city. I am, Sir, respectfully, Your obedient servant,

JAMES BUCHANAN.

P. S. Your despatches to No. 18, inclusive, have been received.

¹ MSS. Department of State, 36 Domestic Letters, 189.

² MSS. Department of State, Instructions, Prussia, XIV. III.

³ For the protocol of February 23, see supra, under that date.

TO MR. SAUNDERS.¹

(No. 10.)

DEPARTMENT OF STATE,

WASHINGTON, 26th February, 1847.

ROMULUS M. SAUNDERS, ESQRE.,

&c., &c., &c.

SIR:

The Consul of the United States at Matanzas, Mr. S. M. Johnson, has informed this Department that, on the death of A. S. Nichols, Consular Agent at Cardenas, he appointed, in obedience to instructions, Mr. Franklin Gage, to act in his stead, and that he gave notice of the appointment to the Captain-General, with a view to procure for him permission to act in that capacity.

The Captain-General declined the Consul's request, on the ground that "he had no authority to acknowledge a Consul, Vice-Consul, or Commercial Agent"; but stated, that he had referred the matter to his Government. The hesitation on the part of that functionary to act in this case, it is probable, has proceeded from misapprehension on his part, as to the nature of the appointment conferred upon Mr. Gage, which is neither that of Consul, Vice-Consul, nor Commercial Agent, but simply Consular Agent; that is to say, the mere deputy of the Consul, acting in his name and upon his responsibility, and not having any direct official relation to this Government.

A copy of the Consul's letter, dated the 4th instant, is herewith transmitted, and you are requested to make the proper explanations to the Minister of Foreign Relations, and to express the confident expectation entertained by this Government of a prompt and favorable decision upon the point. It is not desired, that the Captain-General of Cuba should exercise the faculty of making a public recognition of the Consular Agents so appointed. All that the nature of the subject demands, in these cases, is an instruction to the local authorities, to consider those persons as the duly authorized agents of the Consul who employs them: in the same way that those persons are considered as his agents, who are employed in the Consulate where he resides, when he is absent or incapacitated by illness from discharging his functions in person.

In connexion with the subject of my despatch No. 7, of the

¹ MSS. Department of State, Instructions, Spain, XIV. 215.

4th instant, I now transmit copy of a letter from the widow Cullen, which throws further light on her complaint against the local authorities of Teneriffe, for the alleged violent and unwarrantable proceedings instituted against her, with reference to the seal and archives of the Consulate.

The subject appears to demand an early and careful investigation from you. Mrs. Cullen, it would seem, has, whilst in the conscientious discharge of duty as the representative of her deceased husband, been subjected to unjustifiable vexation and expense; and this by means of a pretension on the part of the authorities of Teneriffe to extend their official action over the archives and seal of an American Consulate. If, upon due examination, the representation made by Mrs. Cullen should be found correct, the case will constitute just ground for a demand that the wrong be repaired, and that Mrs. Cullen shall receive proper indemnification for the prosecution and expense to which she has been subjected. The conduct pursued by Mr. Le Brun, likewise, needs inquiry and explanation. You will furnish the Department as soon as practicable with a full Report upon the subject.

Your despatch No. 7 has been received.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,
WASHINGTON, 26th Feby., 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 30th ultimo, transmitting an authenticated copy of the decision of Judge Betts, of New York, in the case of Nicholas Lucien Metzger, charged with the crime of forgery committed in France, and requesting the surrender of the fugitive, now in confinement at New York, in conformity with the stipulations of the convention of the 9th of November, 1843, between the United States and France.

¹ MSS. Department of State, Notes to French Legation, VI. 100.

The requisite preliminary steps having been taken in this matter, and the evidence adduced being pronounced, by competent judicial authority, sufficient to sustain the charge preferred against the fugitive, no time will be lost in issuing a warrant for the surrender of the said Metzger into the custody of the French Consul General, or other officer commissioned to take charge of him. The warrant will be addressed to the Marshal of the United States for the Southern District of New York, and will be despatched this evening.

Be pleased, Sir, to accept the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. MOORE.¹

DEPARTMENT OF STATE,
WASHINGTON, February 26, 1847.

ELI MOORE, ESQR.

(U. S. Marshal, New York.)

SIR:

I transmit, herewith, a warrant for the surrender to the French Consul General of Nicholas Lucien Metzger, a fugitive from justice from the Kingdom of France, which warrant is issued under the convention between the United States and France, for the mutual surrender of fugitive criminals, concluded at Washington the 9th day of November, 1843.

I am &c.

JAMES BUCHANAN.

TO THE SPEAKER OF THE HOUSE.²

DEPARTMENT OF STATE,
WASHINGTON, February 26, 1847.

SIR: Agreeably to the act of March 2, 1799, I have the honor to communicate an abstract of the returns made to this department by the collectors of customs, pursuant to the act of May 28, 1796, for the relief and protection of American seamen; showing the number of seamen registered in each port of entry

¹ MSS. Department of State, 36 Domestic Letters, 190.

² H. Ex. Doc. 121, 29 Cong. 2 Sess. 1.

of the United States during the year ending the 30th of September last.

I am, sir, respectfully, your obedient servant,

JAMES BUCHANAN.

TO THE HON. SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TO MR. LESLIE.¹

DEPARTMENT OF STATE,

WASHINGTON, February 27th, 1847.

ROBERT LESLIE, ESQR.
(Baltimore.)

SIR:

Your letter of the 12th instant has been received, complaining with reference to the case of the ship "Scotia" of Baltimore of the partial and injurious operation at Liverpool of a recent English law in regard to passenger vessels.—Your request that a copy thereof may be transmitted to our Consul at Liverpool, with a request that he will give his attention to the subject, will be complied with, and any report which he may make in regard to it will receive due consideration.—With reference, however, to the position which you state it to be your intention to take, when your vessel next visits Liverpool, that, owing to the manner in which passengers are engaged for her, and to the other circumstances mentioned by you, she cannot properly "fall under the law or any of its provisions," it is to be remarked, that this is a point which depends altogether upon the words of the statute, and the construction given to its language by those functionaries of the British Government, executive and judicial, to whom its execution and interpretation are confided.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 190.

TO THE CHEVALIER MARTUSCELLI.¹

DEPARTMENT OF STATE,
WASHINGTON, 27th February, 1847.

THE CHEVALIER MARTUSCELLI,
&c., &c., &c.,

SIR:

Your notes of the 14th of December last, and 17th instant, asking for the discharge of Joseph Follingher, a Neapolitan subject, from the military service of the United States, were duly received and referred to the Secretary of War; and I have now the honor to transmit a copy of his reply, and of the accompanying correspondence.

From this you will perceive that your request was promptly complied with by the War Department; but that Follingher has declined availing himself of the liberty allowed him.

I am, Sir, with distinguished consideration,

Your obedient servant,

JAMES BUCHANAN.

TO MR. MCKAY.²

DEPARTMENT OF STATE,
WASHINGTON, March 2, 1847.

SIR: Among the amendments adopted by the Senate to the Civil and Diplomatic bill, you will find an appropriation of \$50,000 to be paid to the Spanish Government for the purpose of distribution among the claimants in the "Amistad case."

This claim has been incessantly urged upon the Government of the United States by the Spanish Government. They have much feeling upon the subject, and will never, I am persuaded, cease from prosecuting it, until it shall be adjusted. I have given the question a thorough and deliberate consideration, and cannot avoid the conclusion that the claim is well founded, under the 8th, 9th, and 10th articles of our Treaty with Spain of the 20th October, 1795.

But even if the claim were doubtful, I may repeat what I said in my letter of March 19, 1846, to the chairman of the committee on Foreign Relations of the House, that "so long

¹ MSS. Department of State, Notes to Italian States Legation, VI. 99.

² S. Ex. Doc. 29, 31 Cong. 2 Sess. 11.

as it shall remain unsettled, it cannot fail to prove a source of irritation and discord between the two countries, highly prejudicial, in many respects, to the interests of the United States."

I am, &c.,

JAMES BUCHANAN.

HON. JAMES J. MCKAY,

(Chairman Com. Ways & Means, H. R.)

TO JUDGE BETTS.¹

DEPARTMENT OF STATE,

WASHINGTON, March 3d, 1847.

HON. SAMUEL L. BETTS,

(U. S. Judge, Southern Dist. New York.)

SIR:

I have duly received your note of the 1st instant, and beg you to accept my acknowledgments for your attention in transmitting to me a copy of the opinion delivered in the case of Metzger. The enclosed extract from the minutes of the Supreme court of the U. States, December term, 1846,² containing its judgment and order in the case, will acquaint you with the result of the application made in behalf of the prisoner for a writ of habeas corpus.

A warrant was issued on Friday last, and forwarded to New York the same day, authorising the surrender of Metzger to the French Consul General in that city.

I am &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 193.

² Matter of Metzger, 5 Howard, 176.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,
WASHINGTON, March 6, 1847.

BENJAMIN F. BUTLER, ESQR.

(U. S. District Attorney, New York.)

SIR:

From information just communicated to this Department by M. Pageot, there is reason to believe that measures have been taken in New York to obtain the discharge of Metzger, on the alleged ground that the warrant issued by this Department on the 26th ult. for his surrender to the French Consul General, although in the usual form, is invalid.

You will immediately institute an inquiry in regard to this matter, and strenuously oppose, if not too late, any proceedings having for their object the enlargement of the accused, or to delay his departure to France. If Metzger shall have been liberated before this letter reaches you, or shall subsequently be, in despite of your efforts to the contrary, you will take prompt measures to have him again arrested and committed to prison as a fugitive from justice, there to await the further directions of the President in relation to his case.

I am &c.

JAMES BUCHANAN.

TO MR. PERKIN ET AL.¹

DEPARTMENT OF STATE,
WASHINGTON, March 6, 1847.

MESSRS. PERKIN AND SMITH,

(New London, Conn.)

GENTLEMEN:

Your letter of the 27th ultimo has been duly received. I have to state, in reply to your inquiries, that the prosecution by American citizens of the business of "catching salmon in the creeks and inlets of the western coast of Greenland," or anywhere within three miles of the main land, without the assent of the local authorities, would be both a territorial encroachment and an interference with an exclusive right which has been exercised by the Danish Government for some eight hundred years: for

¹ MSS. Department of State, 36 Domestic Letters, 195.

the Greenlanders became tributary to Denmark in A.D. 1023, and the trade with them has ever since been a monopoly, carried on by the Danish Government.

On referring to the subsisting convention between the United States and Denmark, of April 26, 1826, establishing commercial relations between their respective territories and people, it will be perceived, that Greenland is mentioned as one of "the northern possessions of His Majesty, the King of Denmark," expressly excepted from the general stipulations of the instrument, and the right to regulate the direct intercourse with these possessions is expressly reserved to him.

The question whether salmon, supposing it to be taken on that coast by our citizens, would, when brought to the United States, "be subject to any duty as foreign imports," is one which must be decided by the tariff act of July 30, 1846, a copy of which is doubtless within your reach. If any doubts arise as to the construction to be put upon the language of that act, they can be authoritatively solved by the Secretary of the Treasury, or the proper judicial tribunals.

I am &c.

JAMES BUCHANAN.

TO MR. RUSH.¹

DEPARTMENT OF STATE,

WASHINGTON, 6th March, 1847.

RICHARD RUSH, ESQRE., &c., &c., &c.

Sydenham, near Philadelphia, Penna.

SIR: I have the honor of transmitting to you, by direction of the President of the United States, a commission as Envoy Extraordinary and Minister Plenipotentiary to France.

Permit me to express the hope that our country may, on this occasion, have the benefit of your services; and to assure you of the high respect with which I am, Sir, your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, France, XV. 46.

TO MR. DAVIS.¹

DEPARTMENT OF STATE,
WASHINGTON, March 8th, 1847.

N. H. DAVIS, ESQUIRE,
(Charleston, S. C.)

SIR:

I received on the 3d instant your letter, without date, enclosing one from F. H. Elmore, Esq., under date the 20th ultimo, both relating to your wish to obtain passports for your nephew, Mr. Scott Davis, who was to embark on the day following for Trieste, on his way to Constantinople, and for four negro men, by whom he is to be accompanied, and whom he is taking out to your brother, Dr. James B. Davis, to be employed in the measures which he is engaged in prosecuting, in the service of the Sultan, for the introduction of the cotton culture in the Turkish dominions.

The only passport ever issued by this Department is, as you will perceive from the one herein enclosed for Mr. Scott Davis, in the nature of a certificate that the bearer is a citizen of the United States. This document, therefore, can be granted only to those who are citizens. When applications for passports have been made on behalf of free persons of color, born or resident within the United States, it has been customary to give them, not a passport, in the ordinary form, recognizing them as citizens, but a certificate suited to the nature of the case: and if your letter had stated that the negro men by whom your nephew is accompanied are free, a certificate of this kind could have been issued in regard to them. The records of the Department do not, however, shew any instance of a document of this nature having ever issued with respect to a slave, or to a person of color whose character in this regard was doubtful.

It is to be presumed that the consul of Austria at Charleston is capable of informing you whether the passage of the persons in question through the Austrian dominions be consistent with the laws of that empire; and, if so, what formalities, if any, are to be observed on the occasion. Where the laws of a country require foreigners arriving within its limits to be provided with passports, this requirement always has reference to passports granted (or if not granted, at least countersigned) by its own

¹ MSS. Department of State, 36 Domestic Letters, 198.

diplomatic or consular agents: these officers being properly instructed in regard to all matters bearing upon the subject. The passport issued by this Department does not, in any way, supersede the necessity for the action of the proper officers of those governments whose laws require the use of passports. The precise nature of these passports, in each case, and the regulations of each particular country respecting travellers passing through it, it belongs, of course, to its officers to be conversant with.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.¹

DEPARTMENT OF STATE,

WASHINGTON, 9th March, 1847.

DON A. CALDERON DE LA BARCA,
&c., &c., &c.

The Undersigned, Secretary of State of the United States, has attentively considered the note just handed to him by His Excellency Mr. Calderon de la Barca, Envoy Extraordinary and Minister Plenipotentiary of Spain, formally announcing, in accordance with his instructions, and as the result of the various conferences which have recently taken place between them, that the Government of Her Catholic Majesty is willing to locate permanently at Havana the payment of the interest to which the second Article of the Convention of 1834 refers; and agreeing that the amount of the said interest shall be annually remitted to Washington by the Treasury of Havana in bills of exchange guarantied by it,—first deducting from said amount five per cent., or \$1500, to cover expenses accruing upon the remittance,—provided that, on receiving these bills, the Government of the United States will give Her Majesty's Legation in this city the acquittances and usual order for the delivery of the Coupons at Paris, in the manner and form heretofore observed.

The Undersigned has the honor to inform Mr. Calderon, in reply, that having communicated with the holders of the certificates of this debt, and become acquainted with the views of a large majority of them in relation to an arrangement of the kind

¹ MSS. Department of State, Notes to Spanish Legation, VI. 150.

offered, he feels himself authorized to assent to that proposed by Mr. Calderon; in the understanding that the said annual remittance of interest, in bills of Exchange, is to be made on the 14th day of August of each successive year, or at latest, one month or forty days thereafter, if, from imperative or unforeseen circumstances, it should occasionally prove impossible to make it by the day named. In this understanding, Mr. Calderon's proposition, as set forth in his note above mentioned, is hereby accepted.

The Undersigned avails himself of the occasion to renew to Mr. Calderon the assurance of his distinguished consideration.

JAMES BUCHANAN.

TO MR. HUESMAN.¹

DEPARTMENT OF STATE,
WASHINGTON, March 10, 1847.

B. H. HUESMAN, ESQR.

(14 Platt Street, New York.)

SIR:

Your letter of the 3d instant has been received. I have to state, in reply, that the Government of the United States affords equal protection to all our citizens, whether naturalised or native, and this Department makes no distinction between the one and the other in granting passports.

It is right to inform you, however, that difficulties have arisen in cases similar to yours. In more than one instance European Governments have attempted to punish our naturalised citizens, who had returned to their native country, for military offences committed before their emigration. In every such case the Government has interposed, I believe, successfully, for their relief: but still they have, in the mean time, been subjected to much inconvenience. Under these circumstances, I could not advise you to incur the risk of returning to Oldenburg, if the business which calls for your presence there can be transacted by any other person.

I am, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 200.

TO MR. WICKLIFFE.¹

(No. 17.)

DEPARTMENT OF STATE,

WASHINGTON, 10th March, 1847.

ROBERT WICKLIFFE, JR., ESQRE.,
&c., &c., Turin.

SIR:

Your despatch No. 48, of the 10th December last, was not received at this Department until the 12th February. It has been submitted to the President; and he has directed me to inform you, that he cannot grant you the leave of absence which you request. In this respect, he has acted towards you as he has done to all other diplomatic agents who have asked leave of absence, since the commencement of the Mexican war. During its continuance, it is his opinion that all our foreign diplomatic agents should remain at their posts.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

FROM MR. PAKENHAM.²

WASHINGTON, March 17, 1847.

SIR: Permit me to recall to your recollection the present state of the disputed territory fund as relates to the fulfilment of the provisions of the fifth article of the treaty of Washington.

On the 18th of August last you were pleased to inform me that John Hodsdon and George W. Coffin, Esqrs., had been appointed agents, the former by the State of Maine, and the latter by the State of Massachusetts, to investigate and adjust the disputed territory fund account furnished by the government of New Brunswick, under the fifth article of the treaty of Washington, and you requested me, in conformity with our previous understanding upon the subject, to furnish those gentlemen such a letter of introduction to his excellency the lieutenant governor of New Brunswick as should procure for them the facilities necessary to accomplish the object of their mission.

In compliance with this request, I forwarded to Messrs. Hodsdon and Coffin a letter of introduction to the lieutenant governor of New Brunswick, of which letter I had the honor to transmit to you a copy with my note of September 1, and you, sir, at the same time, furnished to those gentlemen a letter to Sir William Colebrooke, of which you had the goodness to furnish to me a copy, accrediting them as agents for the States of Maine and Massachusetts, for the purpose of investigating and adjusting the disputed territory fund account.

¹ MSS. Department of State, Instructions, Italy, I. 38.

² S. Ex. Doc. 63, 37 Cong. 2 Sess. 2.

Messrs. Hodsdon and Coffin accordingly proceeded to Frederickton, where, in conjunction with the gentlemen appointed on the part of the provincial government to act with them, they, in a short time, fulfilled the object of their mission; a deed of agreement and settlement of the disputed territory fund was duly concluded between the agents or commissioners on both sides, and the money found to be due to the States of Maine and Massachusetts, and the bonds and securities appertaining thereto, were paid over and delivered to Messrs. Hodsdon and Coffin as the agents of those States.

The stipulations of the fifth article of the treaty of Washington have thus been essentially fulfilled; but, in point of form, it seems to me that something is still wanting to render the manner of concluding this business more literally conformable to the provisions of the treaty, according to which the money ought to have been paid, and the bonds and securities delivered, not directly to the States of Maine and Massachusetts or to their agents, but to the government of the United States, which government agreed to receive for the use of, and pay over to the States of Maine and Massachusetts, their respective portions of the said fund.

In submitting this point for your consideration, I beg leave at the time to observe, that if the termination of the matter as it now stands should appear to the government of the United States to amount to a full and sufficient fulfilment of the engagements of the treaty, her Majesty's government will not be disposed, I imagine, to raise any question on account of the trifling informality which has been committed.

I have the honor to be, with high consideration, sir, your most obedient humble servant,

R. PAKENHAM.

HON. JAMES BUCHANAN, &c., &c., &c.

TO SEÑOR CALDERON DE LA BARCA.¹

DEPARTMENT OF STATE,
WASHINGTON, 18th March, 1847.

DON A. CALDERON DE LA BARCA,
&c., &c., &c.

The Undersigned, Secretary of State of the United States, has the honor to inform His Excellency, the Minister of Spain, that the complaints preferred, in his notes of the 20th September and 5th November last, against the Commander of the Naval Forces of the United States in the Gulf of Mexico, in relation to the manner of conducting the blockade of the Mexican Ports, were duly communicated to that officer, who was directed by his Government to transmit, as early as possible, such explanations as the occasion and the nature of the case appeared to demand.

¹ MSS. Department of State, Notes to Spanish Legation, VI. 151.

The Undersigned now hastens to place the Minister of Spain in possession of Commodore Conner's reply, (omitting two or three sentences which have no material bearing upon the subject), which will be found to embrace a minute and exact account of the transactions referred to, accompanied by several documents in confirmation of his statement.

These papers appear to furnish so complete a refutation of the alleged charges that the Undersigned, in communicating them for the satisfaction of the Minister and his Government, forbears to offer any observations or comments upon the subject.

The Undersigned avails himself of the opportunity to repeat to Mr. Calderon the assurance of his distinguished consideration.

JAMES BUCHANAN.

TO THE GOVERNORS OF MAINE AND
MASSACHUSETTS.¹

DEPARTMENT OF STATE,

WASHINGTON, March 18, 1847.

HIS EXCELLENCY, GOVERNOR OF MAINE (Augusta)

HIS EXCELLENCY, GOVERNOR OF MASSACHUSETTS, (Boston)

SIR:

In a letter dated the 3d of November last, relating to the settlement of "the disputed Territory fund account," I informed your Excellency that "Mr. Pakenham had called on me for an acquittance to be transmitted to the British Government," and added, "this I cannot give him without receiving in the first place a joint acknowledgment from Your Excellency and the Governor of (Maine) (Massachusetts) that you have received all the money and bonds due to the two states under the 5th article of the treaty of Washington."

The British Government having again signified, through its Minister here, a desire that this matter should be definitively disposed of, I have the honor again to bring the subject to your notice, and to request that the acknowledgment above referred to may be furnished to the Department as soon as convenient.

I am &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 207.

TO SEÑOR CALDERON DE LA BARCA.¹

DEPARTMENT OF STATE,

WASHINGTON, 19th March, 1847.

SIR: In conformity with the request contained in your note of the 11th instant, I herewith enclose to you a copy of the note on the subject of the Amistad, which I addressed to the Honorable James J. McKay, Chairman of the Committee of Ways and Means, of the House of Representatives, under date of the 2nd of March, 1847. It may be satisfactory for you to know, that the sentiments contained in that note had received the cordial approbation of the President, before it was transmitted.

I need not assure you of his desire that this question should be speedily and satisfactorily adjusted: and he entertains the hope that the appropriation necessary for that purpose may be granted at the next Session of Congress.

Assuring you of the constant desire of this Government to cultivate the most friendly relations with the Government of Her Catholic Majesty,

I remain, yours, very respectfully,

JAMES BUCHANAN.

DON A. CALDERON DE LA BARCA,

&c., &c., &c.

TO MR. JEWETT.²

No. 8.

DEPARTMENT OF STATE,

WASHINGTON, 19th March, 1847.

To A. G. JEWETT, ESQUIRE,
etc., etc., etc.

SIR:

I have to inform you that the President, by and with the advice and consent of the Senate, has appointed Mr. J. R. Clay your successor as Chargé d'Affaires of the United States to Peru. A letter to the Minister for Foreign Affairs of that Republic, announcing your recall, is accordingly herewith transmitted, which you will embrace an early opportunity to deliver. Prior to your departure from Peru, you will lodge the archives of the

¹ S. Ex. Doc. 29, 31 Cong. 2 Sess. 10; MS. Notes to Spanish Legation, VI. 153.

² MSS. Department of State, Instructions, Peru, XV. 52.

Legation with Mr. Prevost, the Consul of the United States at Lima.

Your recall has been made in consequence of a request to this effect by the Minister of Foreign Relations of Peru to myself, in a despatch dated April 11th, 1846, and received at this Department on the 2d June, following. The President, reluctant to comply with this request, instructed me not to answer it immediately, in the hope that your relations with that Government might change, and that you might again be placed in a position to serve your country with effect. In this hope he regrets that he has been disappointed. Mr. Osma, since his arrival in this City, has personally reiterated the request, and the President has finally felt himself obliged to comply with it, although no answer has yet been returned to the note of the Peruvian Minister.

In the intercourse between friendly nations, when the diplomatic representative of the one has rendered himself so unacceptable to the authorities of the other as to impair or destroy his usefulness, it has been the custom, unless under extraordinary circumstances, to yield to such a request when made in respectful and friendly terms. This practice is founded upon the principle that the great interests of nations ought not to be jeopardized merely for the sake of retaining any individual in a diplomatic station. If diplomatic agents render themselves so unacceptable as to produce a request for their recall from the Government to which they are accredited, the instances must be rare indeed in which such a request ought not to be granted. To refuse it would be to defeat the very purpose for which they are sent abroad, that of cultivating friendly relations between independent nations. Perhaps no circumstance would justify such a refusal, unless the national honor were involved in the question, and this cannot be pretended on the present occasion.

The principle to which I have adverted applies with peculiar force in our relations with Peru, especially during the continuance of the Mexican war. From the situation of that Republic on the west coast of America,—from the number of our vessels, both national and commercial, which frequent the harbor of Callao and other Peruvian ports,—from the facilities for fitting out privateers along the coast, and from the vast amount of the property of our citizens afloat on the Pacific ocean, it is essential that we should have a Chargé d'Affaires at Lima who possesses the confidence and regard of the Peruvian Government. It is

of great importance that the duties of neutrality and friendship should be faithfully performed by that Government to the United States: and these cannot be successfully enforced by the agency of a Minister against whom the Peruvian authorities have conceived so strong a prejudice, whether well or ill founded, as to induce them to make reiterated requests for his recall.

Your despatches to No. 16 inclusive, with the exception of No. 10 (of which it may be advisable to furnish the Department with a duplicate) have been received.

I am, Sir, very respectfully, your obedient servant,
JAMES BUCHANAN.

TO THE PERUVIAN MINISTER OF FOREIGN
RELATIONS.¹

[March 22, 1847.]

To His EXCELLENCY,

THE MINISTER OF FOREIGN RELATIONS OF PERU.

The Secretary of State of the United States has the honor to acknowledge the receipt of the communication of His Excellency, the Minister of Foreign Affairs of Peru, dated on the 11th of April, last, soliciting the recall of Mr. Albert Gallatin Jewett, Chargé d'Affaires of the United States to the Peruvian Government. The Undersigned, by direction of the President, delayed to answer this request, at the time of its receipt, in the hope that the relations of Mr. Jewett with the Peruvian Government might undergo a favorable change and that his recall would not be further pressed by Your Excellency. Mr. Osma, however, since his arrival in this City, having personally reiterated the request of the Peruvian Government, the President at once determined to recall Mr. Jewett. Accordingly, Mr. John Randolph Clay, at present Secretary of Legation to our mission at St. Petersburg, has been appointed his successor. In complying with this request, the President has furnished renewed evidence of his desire to cultivate the most friendly relations with the Government of Peru.

The Undersigned would respectfully but earnestly call Your Excellency's attention to another subject of great importance. The Government of the United States have acceded to the wishes of that of Peru and have consented to a modification of the

¹ MSS. Department of State, Credences, III. 201.

Convention of March, 1841, by which the payment of the annual instalments of thirty thousand dollars under its stipulations should commence on the first day of January, 1846, instead of the first of January, 1844. There are now two instalments due, with interest on each from the first day of January, 1842. The claimants, having been long delayed, are urgent to receive their money, and the President is exceedingly solicitous that the Convention should be punctually observed on the part of Peru. For this purpose, he has transmitted a Power of Attorney to Messrs. Edward McCall and Company, United States Navy Agents at Lima, to receive the instalments now due and to become due under the Convention, and to give the necessary acquittances to the Peruvian Government. For your satisfaction, a copy of this instrument is herewith transmitted. The money thus received by McCall & Company will not be transmitted to the United States, but will be expended in your own country in purchasing supplies for our navy. This arrangement, it is believed, cannot fail to be agreeable to the Peruvian Government. The Government of the United States, as soon as it shall receive information that the instalments now due and to become due have been paid to Messrs. McCall and Company, will distribute the amount among the claimants in the United States. The early attention of the Peruvian Government to this business will be justly appreciated by the President.

I avail myself of this occasion to offer to Your Excellency assurances of my most distinguished consideration.

JAMES BUCHANAN.

DEPARTMENT OF STATE,
WASHINGTON, 22nd March, 1847.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,
WASHINGTON CITY, 23d March, 1847.

BENJAMIN F. BUTLER, ESQR.
(U. S. District Attorney, New York.)

DEAR SIR:

I have received your favor of the 22d instant with the accompanying documents, and am indebted to you for the information which they contain.

¹ MSS. Department of State, 36 Domestic Letters, 211.

The President feels a deep interest in the case of Metzger, and is at a loss to conjecture upon what principle Judge Edmonds has undertaken to re-hear it upon its original merits, and to re-judge the decision of Judge Betts. If, after all the judicial proceedings required by our treaties of extradition have been perfected, and the President has thereupon issued his warrant, any Judge, upon a Habeas Corpus, can review the evidence presented to and taken before the committing Judge, with a view to the reversal of his judgment, and thus arrest the execution of the President's mandate, then we ought to make no more Treaties of this character, and relieve ourselves from the obligations of those which already exist as speedily as possible. In that event, we have pledged the national faith to the performance of obligations which it is in the power of any Judge who may feel the disposition to defeat, and the accused will always have it in his power to select that Judge who will the best answer his purpose.

The French Minister has very properly given the Department of State notice, that, since the date of the President's warrant of extradition, the case is now exclusively in the hands of this Government, the Government of France having already performed all on its part which the treaty requires. It might be proper, under all the circumstances, to instruct the Marshal of the United States not to obey the order of the Judge, should he direct the prisoner to be discharged. This, however, would at once produce a direct conflict between the federal and state authorities, which the President wishes to avoid: but it is his desire that you should adopt every lawful means to prevent the escape of Metzger. I know not whether a Writ of Error would lie from the Supreme Court of New York to Judge Edmonds, or what other course you can pursue to prevent the public faith from being violated. If the question could be brought either before the Supreme Court of the United States or that of New York, I do not believe that either of these tribunals would have the least difficulty in giving effect to the President's warrant of extradition. He relies, with confidence, on your ability and zeal to prevent such a flagrant outrage on the National faith as would be perpetrated by the release of Metzger.

Yours very respectfully,

JAMES BUCHANAN.

TO MR. CADUC.¹

DEPARTMENT OF STATE,
WASHINGTON, March 23d, 1847.

P. J. CADUC, ESQUIRE,
(Baltimore.)

SIR:

I transmit two bills of exchange, one for one thousand pounds sterling, drawn by Powles, Wilson and Co. of Bogotá on the Board of Directors of the Colombia Mining Association, and the other for seven hundred and thirty pounds sterling, drawn by the same parties on Messrs. Powles, Brothers, and Co., London. These bills are payable to my order and have been by me indorsed. They were received from Mr. Bidlack at Bogotá, who purchased them with the amount of payments made by the Government of New Granada in the case of the brig Morris, and are remitted to you as the agent of the claimants in that case. I will thank you to acknowledge the receipt of this communication.

I am, &c.

JAMES BUCHANAN.

TO M. PAGEOT.²

DEPARTMENT OF STATE,
WASHINGTON, 23d March, 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of yesterday, transmitting, with other papers, an authenticated copy of the order of Judge McCaleb, of the District Court of the United States for the District of Louisiana, in the case of Alexander Legendre, a fugitive from justice, charged with the crime of forgery committed in France; and requesting the surrender of the accused, now in confinement at New Orleans, in conformity with the stipulations of the Convention of the 9th of November, 1843, between the United States and France.

The requisite preliminary steps have been taken in this matter, and the evidence adduced having been held sufficient,

¹ MSS. Department of State, 36 Domestic Letters, 212.

² MSS. Department of State, Notes to French Legation, VI. 100.

by competent judicial authority, to justify his apprehension and commitment under the charge preferred against the fugitive, no time will be lost in issuing a warrant for the surrender of the said Legendre into the custody of the French Consul at New Orleans, or of any other officer commissioned to take charge of him. The warrant will be addressed to the Marshal of the United States for the District of Louisiana, and will be despatched this evening.

I pray you to accept the assurance of my high consideration.
JAMES BUCHANAN.

TO MR. BARTON.¹

DEPT. OF STATE, 24 March, 1847.

SETH BARTON, ESQR.

Solicitor of the Treasury.

SIR,

Messrs. R. G. Shaw & Co., of Boston, have transmitted to this Dept. a copy of an official certificate, issued by Edward Warrens, Esqr., Consul of the U. S. at Trieste, under date 27th Decr. last, in which it is stated, that "the Barque 'Effort' of Boston, having been sold to Austrian subjects in this Port, I have returned to the Captain the Crew List & Mediterranean pass of said Barque, the Register having been delivered to the purchasers of said Barque."

In the communication of Messrs. Shaw to this Dept. they state, that the Register of the "Effort" was taken from her American Captain by the Consul, & delivered over to the parties who purchased her, they being Austrian subjects, & thus, "by the act of the Consul, prevented from cancelling their Register Bond," they request, that this Dept. "give authority to the Collector of Boston to cancel the Register Bond held against them, on the production of the Consular Certificate referred to."

In reply, the Messrs. Shaw have been informed by this Department that no such authority is vested in it; but that instructions would be transmitted to Mr. Warrens to make every

¹ MSS. Department of State, Despatches to Consuls, X. 422.

A letter, substantially the same as that given above, was sent to Messrs. R. G. Shaw & Co., Boston, on March 23, 1847, and instructions of the same tenor were sent to Edward Warrens, Esqr., U. S. Consul, Trieste, under date of March 23, 1847; MS. Despatches to Consuls, X. 420, 421.

effort to recover possession of the Register, in regard to which he had committed so strange an oversight of the requirements of law: and that "meanwhile a communication would be addressed to the Solicitor of the Treasury, requesting him in view of the circumstances of the case, to instruct the Attorney of the U. S. at Boston not to institute any proceedings upon the Bond: & should the Register not be recovered by the Consul from the foreign purchasers," they were advised that "the only existing lawful authority, by the exercise of which they can be relieved from the consequences, is that vested by the Act of March 3d, 1797, in the Secretary of the Treasury, whose remission of the penalty incurred can be obtained in the manner prescribed therein."

Instructions to the effect above stated have been transmitted to the Consul, & I have accordingly to request, that, if deemed by you to be proper, the instructions referred to may be issued to the District Attorney. Mr. Warrens has been directed to report the result to the Department without delay, of which you will be duly advised.

I am Sir &c.

JAMES BUCHANAN.

TO EDWARD McCALL & CO.¹

DEPARTMENT OF STATE,

WASHINGTON, March 24, 1847.

GENTLEMEN: I transmit a power from the President of the United States, authorizing you to receive and give acquittances for the instalments, with the interest thereon, due and to become due under the modified convention between the United States and Peru of the 17th March, 1841. Copies of the Convention, as modified, are herewith transmitted. Mr. Jewett, the Chargé d'Affaires of the United States to Peru, on leaving this country for his post, was empowered to receive the instalments under the convention as originally concluded, and it is probable that the Peruvian Government would have deemed that power sufficient for him to act under the modified convention, if he had remained at Lima and his services as an agent in the business had still been required by this Government. But he has been recalled, and public considerations have induced the President to

¹ S. Ex. Doc. 58, 31 Cong. 1 Sess. 3; 36 MS. Domestic Letters, 212.

confer the trust upon you. Some of these are alluded to in the following extract from a note addressed by me to the Minister for Foreign Affairs of Peru under date the 22d instant.

"The undersigned would respectfully but earnestly call your Excellency's attention to another subject of great importance. The Government of the United States have acceded to the wishes of that of Peru, and have consented to a modification of the convention of March, 1841, by which the payment of the annual instalments of \$30,000 under its stipulations should commence on the 1st of January, 1846, instead of the 1st of January, 1844. There are now two instalments due, with the interest on each from the 1st of January, 1842. The claimants, having been long delayed, are urgent to receive their money; and the President is exceedingly solicitous that the convention should be punctually observed on the part of Peru. For this purpose he has transmitted a power of attorney to Messrs. Edward McCall and Co., United States Navy agents at Lima, to receive the instalments now due, and to become due, under the convention, and to give the necessary acquittances to the Peruvian Government. For your satisfaction, a copy of the instrument is herewith transmitted. The money thus received by McCall and Co. will not be transmitted to the United States, but will be expended in your own country in purchasing supplies for our navy. This arrangement, it is believed, cannot fail to be agreeable to the Peruvian Government. The Government of the United States, as soon as it shall receive information that the instalments now due or hereafter to become due have been paid to Messrs. McCall and Company, will distribute the amount among the claimants in the United States. The early attention of the Peruvian Government to this business will be justly appreciated by the President."

It is possible that Mr. Jewett, before this shall reach you, may have received one or both the instalments now due. Should this be the case, and he has not transmitted the amount to the United States, you are hereby authorized to receive it and give him an acquittance for the same, as it is believed that this would save him trouble and responsibility.

This communication will be transmitted to you under cover from the Secretary of the Navy, who will give you the necessary instructions as to the application of the money.

I am, &c.

JAMES BUCHANAN.

MESSRS. EDWARD MCCALL & CO. (LIMA).

TO MR. PREVOST.¹

DEPARTMENT OF STATE,

WASHINGTON, 24th March, 1847.

To STANHOPE PREVOST, ESQUIRE,
Consul of the United States, Lima.

SIR:

Your interesting letter of the 9th December, last, did not reach this City until after we had received authentic information that the projected expedition of General Flores against Ecuador had exploded. May this ever be the fate of all such attempts to interfere with the sovereignty and independence of any of the American Republics!

You may assure General Castilla that this Government has watched with intense anxiety the origin and progress of the intended expedition of Flores. Our warmest sympathies were enlisted on the side of Ecuador and the other South American Republics which were threatened. This will ever be the case when any attempt shall be made by the Powers of Europe to interfere with the independence of any of the nations on this Continent. It did not, however, become necessary for this Government to adopt any measures in consequence of the movements of General Flores, because we never apprehended serious danger from his expedition.

It is proper that General Castilla should know that the Spanish Government, through Mr. Calderon, their Minister in this City, have assured me, in the strongest terms, that they have never taken any part in the expedition. This assurance has been given both verbally and in writing. Indeed, Mr. Calderon has furnished me a copy of instructions on this subject from Mr. Istariz, dated at Madrid on the 1st November, last, from which I make the following extract in translation.

"I have to state to Your Excellency, in answer, by order of Her Majesty, that the Spanish Government has no part in the said expedition [that of Flores]; that it has so declared solemnly in the Cortes in its sitting of the 26th and 28th of September, last, as published in the Gazette of the 27th and 29th of the same month; and that agreeably to these declarations you are to reply, if asked, with regard to the participation in this affair which has been without any grounds attributed to

¹ MSS. Department of State, Special Missions, I. 255.

Her Majesty's Government. This I say to Your Excellency by Royal Order, for your information and in answer to your said despatch."

Many persons may be disposed to doubt the sincerity of this declaration; but the disavowal of any participation in the expedition, made by the Spanish Government to that of the United States, furnishes strong evidence that the former have abandoned, at least for the present, any intention of encouraging future expeditions of a similar character.

You will find enclosed in this package a communication addressed by this Department to the Peruvian Minister of Foreign Affairs, which you will please to deliver immediately.

Also, a communication to Messrs. McCall and Company, Navy Agents of the United States, to which I would invoke your special attention. I need not furnish you with arguments to urge upon the Government of Peru the necessity of an immediate payment of the two instalments now due under their Treaty with the United States.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. BIDLACK.¹

(No. 15.)

DEPARTMENT OF STATE,

WASHINGTON, 25th March, 1847.

To B. A. BIDLACK, ESQUIRE,
&c. &c. &c.

SIR:

I have to acknowledge the receipt of your despatches to No. 39, inclusive. The Treaty signed by Mr. Mallarino and yourself on the 12th December, last, was promptly submitted by the President to the Senate with the Message and documents which you will find enclosed, but I regret to inform you that its consideration was postponed until the first Monday of December next. This delay has been occasioned by the pressure and urgency of important business, both Legislative and Executive, before the Senate, and the necessarily late period of the session when it was submitted to that body.

Colonel Sevier, the Chairman of the Committee on Foreign

¹ MSS. Department of State, Instructions, Colombia, XV. 112.

Relations, informed me that a protracted debate would have arisen on the 35th Article of the Treaty, containing the guarantee, on the part of the United States to New Granada of the neutrality of the Isthmus of Panama and her sovereignty over the same; and for this reason, the Senate, at so late a period of the session, were unwilling to enter upon its discussion. He entertains fair hopes, notwithstanding, that it will be ratified at the next session by a constitutional majority.

There are strong objections to the additional article, because it would enable the Government of New Granada to naturalize any foreign vessels with their crews it might think proper, and to bring them into competition with American vessels in the trade between the two countries. With this exception and that of the 35th Article, the Treaty would most probably have been ratified by the Senate without opposition.

I am gratified that the term for the exchange of ratifications will not expire until the 12th June, 1848, thus affording ample time for the action of the Senate upon the treaty before the termination of this period.

I heartily rejoice that the expedition of General Flores against Ecuador has exploded. May this ever be the fate of all such attempts to interfere with the sovereignty and independence of any of the American Republics!

You may assure the Minister of Foreign Affairs of New Granada that this Government has watched with intense anxiety the origin and progress of the intended expedition of Flores. Our warmest sympathies were enlisted on the side of Ecuador and the other South American Republics which were threatened. This will ever be the case when any attempt shall be made by the Powers of Europe to interfere with the independence of any of the nations on this continent. It did not, however, become necessary for this Government to adopt any measures in consequence of the movements of General Flores, because we never apprehended serious danger from his expedition.

It is proper that the Minister for Foreign Affairs of New Granada should know that the Spanish Government, through Mr. Calderon, their Minister in this City, have assured me, in the strongest terms, that they have never taken any part in the expedition. This assurance has been given both verbally and in writing. Indeed, Mr. Calderon has furnished me a copy of his instructions on this subject from Mr. Isturiz, dated at Madrid on the 1st November, last, from which I make the following

extract, in translation. "I have to state to Your Excellency, in answer, by order of Her Majesty, that the Spanish Government has no part in the said expedition [that of Flores]; that it has so declared solemnly in the Cortes in its sitting of the 26th and 28th of September, last, as published in the Gazette of the 27th and 29th of the same month; and that agreeably to these declarations you are to reply, if asked, with regard to the participation in this affair which has been without any grounds attributed to Her Majesty's Government. This I say to Your Excellency by Royal order, for your information and in answer to your said despatch."

Many persons may be disposed to doubt the sincerity of this declaration; but the disavowal of any participation in the expedition, made by the Spanish Government to that of the United States, furnishes strong evidence that the former have abandoned, at least for the present, any intention of encouraging future expeditions of a similar character.

It is believed that there is no fund at the disposal of the Executive, any part of which can lawfully be applied to the purpose which you recommend with reference to the protestant cemetery at Bogotá. Similar applications have been heretofore refused.

You were informed in the postscript to the duplicate of my despatch No. 14 that your draught for three thousand dollars in favor of the claimants in the case of the Morris had been paid, and it is presumed that intelligence to the same effect has been communicated to you by Mr. Caduc, their agent.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. INGERSOLL.¹

(No. 2.)

DEPARTMENT OF STATE,

WASHINGTON, 25th March, 1847.

RALPH J. INGERSOLL, &c. &c. &c.

SIR:

You will probably have learned ere this reaches you that the President has, by and with the advice and consent of the Senate, appointed Mr. John R. Clay to be Chargé d'Affaires of the United States at Lima, in Peru. Should this appointment be accepted—as I have no reason to doubt it will be—the transfer of Mr. Clay will leave the Mission of the United States at St. Petersburg without a Secretary of Legation. In this event, and to obviate the inconveniences which might be experienced from Mr. Clay's absence, you are authorized to employ any person whom you may select to perform the duties of Secretary until the President shall have made a definitive appointment. From the date of his entering upon his official duties, until the arrival of a regularly appointed successor, you are authorized to make him an allowance, in proportion to the services which he shall render, at a rate not exceeding two thousand dollars per annum, from the contingent fund of the Legation, which will be increased to meet this additional charge upon it.

The President desires to consult your wishes in regard to the choice of a Secretary of Legation: and will make no appointment until these shall be made known to him. He deems it indispensable, however, that Mr. Clay's successor, whoever he may be, should speak the French language fluently. You will please to address me on this subject at your earliest convenience; as with all the expedition possible a considerable time must necessarily elapse before a Secretary of Legation can be appointed and sent to St. Petersburg from this country.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Russia, XIV. 78. Mr. Ingersoll was commissioned as envoy extraordinary and minister plenipotentiary to Russia, August 8, 1846. He left St. Petersburg July 1, 1848.

TO MR. MARTIN.¹

(No. 5.)

DEPARTMENT OF STATE,

WASHINGTON, 25th March, 1847.

J. L. MARTIN, ESQRE.,
&c., &c., &c.

SIR: I have the honor to inform you that the President has appointed Richard Rush, Esqre., of Pennsylvania, to be Envoy Extraordinary and Minister Plenipotentiary of the United States at the Court of His Majesty the King of the French, and that this gentleman will proceed upon his mission between the middle of May and the first of June next.

I make this communication to advise you that it is the wish of the President, if agreeable to yourself, that you should resume the discharge of the duties of Secretary of Legation upon the arrival of the new Minister; and at the same time to direct you to deliver over to him the books and archives of the Legation of the United States at Paris.

In making the preceding annunciation, I feel authorized to assure you that your conduct as Chargé d'Affaires, *ad interim*, as well as in the character of Secretary of the Mission to France, has been highly satisfactory to the President.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. PAKENHAM.²

DEPARTMENT OF STATE,

WASHINGTON, 29th March, 1847.

RT. HONBLE. R. PAKENHAM,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your letter of the 24th instant, communicating, with reference to your note of the 28th of October last, and in fulfilment of instructions from Her Majesty's Government, copies of two despatches from the British Commissioners at the Cape of Good Hope, containing further information relative to the case of the barque "Lucy

¹ MSS. Department of State, Instructions, France, XV. 47.

² MSS. Department of State, Notes to Great Britain, VII. 154.

Penniman," alleged to have been engaged in a slave trading voyage from Brazil to the coast of Africa; which vessel was taken charge of by Lieutenant Hornby, of Her Majesty's ship "Cleopatra," and delivered over by him to the United States Consul at Cape Town.

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. POLK.¹

(No. 13.)

DEPARTMENT OF STATE,
WASHINGTON, 29th March, 1847.

WILLIAM H. POLK, ESQRE.,
&c., &c., &c.

SIR:

The President has communicated to me your request for leave of absence from your post for a period of three months; and, under the peculiar circumstances of the case, it is granted.

If your object in returning to the United States had been merely to attend to your own private business, however urgent, this would have been denied, as it has been to others, during the continuance of the Mexican war. The domestic circumstances, however, which render it a filial duty on your part to visit your country without delay, are of such a character that I cannot deny your request. Besides, Mr. Hammett, our excellent Consul at Naples, is so competent to attend to any official business which may arise, in the mean time, that the public interest cannot suffer materially from your brief absence. Upon your departure, you will leave the archives and other property of the Legation in his custody.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Two Sicilies, XIV. 42.

TO MR. SHIVELY.¹

DEPARTMENT OF STATE,

WASHINGTON, 29 March, 1847.

SIR: On the eve of your departure for Oregon, the President has instructed me to communicate to you his views in regard to that territory, so that you may make them known to its inhabitants. He deems you a suitable agent for this purpose, as you are now an officer of the United States, having been commissioned Deputy Postmaster at Astoria.

The President deeply regrets that Congress did not, at their late session, enact a law establishing a territorial government in Oregon. A bill for this purpose passed the House of Representatives on the 16th January last, by a vote of 133 to 35. It failed in the Senate, not, as I am firmly convinced, from any want of disposition on the part of the majority to provide a Government for that interesting portion of the republic; but because other urgent and important business connected with the Mexican war did not allow the necessary time before the close of their short session to discuss and perfect its details. For this reason alone, it was laid upon the table on the day Congress finally adjourned.

It is the intention of the President, in his message to Congress in December next, to reiterate the recommendations in regard to Oregon contained in his last annual message. No doubt is entertained that Congress will, at an early period after their meeting, create a Territorial Government for Oregon—extend over it our laws relating to trade and intercourse with the Indian tribes—establish Custom-Houses—and make liberal grants of land to those bold and patriotic pioneers, who, amidst great privations and dangers, have established their settlements upon the soil.

An earnest of this is afforded by the recent Act carrying into effect the recommendations of the President, so far as regards the extension of our Post Office laws and the grant of mail facilities to our fellow-citizens in Oregon. This will appear from a certified copy now furnished to you of part of the first section and of the second, sixth and seventh sections of the act, approved 3d March 1847, “to establish certain post-routes and for other purposes.” I am authorized by the Post

¹ S. Ex. Doc. 1, 30 Cong. 1 Sess. 42; H. Ex. Doc. 8, 30 Cong. 1 Sess. 42; Cong. Globe, 30 Cong. 1 Sess. Appendix, 40; 36 Domestic Letters, 219.

Master General to assure you that all the provisions contained in these sections will be carried into effect with as little delay as possible.

Thus you will perceive that the means have already been provided for the conveyance of public information and private correspondence amongst our citizens in Oregon themselves, and between them and the citizens of our States and Territories east of the Rocky Mountains.

Besides, the late Congress, at their first session, by the act of 19th May, 1846, provided for raising a regiment of Mounted Riflemen, for the express purpose of affording a secure passage through the intervening Indian territory to emigrants on their way to Oregon, and for the establishment of military posts along the route for their protection.

The people of Oregon may rest assured that the Government and people of the United States will never abandon them, or prove unmindful of their welfare. We have given a sufficient pledge of this determination by the zeal and firmness with which, throughout a quarter of a century, our just right to that Territory was steadfastly maintained against the claims of Great Britain, until at last the question was finally adjusted between the two Powers by the Treaty of June, 1846. That treaty has secured to us the whole territory on the continent, south of the parallel of 49°, and this we shall never abandon.

We feel the deepest interest in the prosperity of the people of Oregon. Their brethren on this side of the Rocky mountains regard them with affection and with hope. We can perceive, in the not distant future, one or more glorious states of this confederacy springing into existence on the shores of the Northern Pacific—states composed of our own kindred—of a people speaking our own language, governed by Institutions similar to those which secure our own happiness, and extending the blessings of religion, liberty, and law, over that vast region. Their commerce and trade with the other states of the Union will confer mutual benefits on all parties concerned, and will bind them to us, and us to them, in bonds of reciprocal interest and affection more durable than adamant. Science has discovered, and enterprise is now fast establishing, means of inter-communication so rapid, that, at no distant day, a journey from New York to Oregon will be accomplished in less time than was once employed in travelling from that city to New Orleans, and important news will be communicated by Telegraph with the

velocity of lightning. Their foreign commerce with the West coast of America, with Asia, and the isles of the Pacific, will sail under the protection of our common flag, and cannot fail to bear back wealth in abundance to their shores.

In the meantime, we shall watch over their growth with parental care.

The President will direct our vessels of war to visit their ports and harbors as often as practicable, and to afford them all the protection which they may require; and Congress, I doubt not, will, at the next session, provide for them a territorial Government suited to their wishes and their wants.

Yours, very respectfully,

JAMES BUCHANAN,
Secretary of State.

JOHN M. SHIVELY, ESQR.

Appointed Deputy Postmaster at Astoria,
Oregon Territory.

TO MR. WISE.¹

(No. 33.)

DEPARTMENT OF STATE,

WASHINGTON, 29th March, 1847.

SIR: Your despatch No. 54 of the 9th December, last, was received at this Department on the 7th February.

Your suggestion in that despatch that the Brazilian Government would probably instruct Mr. Lisboa to represent that you were obnoxious to that Government and thus gently hint your recall, has been more than realized, and it has now become proper that I should communicate to you a statement of what has occurred between Mr. Lisboa and myself on that subject.

At our first conference on the 20th January, last, in relation to the imprisonment of Lieutenant Davis and the American sailors, which was somewhat animated on both sides, Mr. Lisboa made a formal request, under instructions, as he alleged, from his Government, that you should be recalled by the President. He stated that the purpose of keeping up diplomatic intercourse between nations, was to preserve and strengthen their friendly relations with each other; and that whenever, from any cause,

¹ MSS. Department of State, Instructions, Brazil, XV. 139; S. Ex. Doc. 29, 30 Cong. 1 Sess. 136.

a particular minister did not or could not accomplish this object, it was the custom of nations to recall him on the request of the Power to which he had been accredited. He cited some cases in which Ministers had been recalled for this reason, although particularly agreeable to the Governments by which they had been appointed.

I gave him a prompt and decided, though civil, answer to this request. Without contesting the general principle, I told him explicitly, that to recall you, under existing circumstances, was entirely out of the question. The President would not think of it for a moment. That your recall, at the present time, might and would be construed into an admission that the Brazilian authorities had acted correctly in imprisoning Lieutenant Davis and the American sailors, and a disapprobation of your efforts to obtain their release; and that the President would never, by his conduct, afford any ground for such an inference.

Mr. Lisboa adhered, with considerable pertinacity, to his request, and after he had intimated that the Brazilian Government might, in case of refusal, order you to leave the country, I replied that they might assume this responsibility if they thought proper. You would certainly not be recalled. He stated at once that they never would do that.

At our next interview, on the 21st of January, Mr. Lisboa again recurred to the subject, but not with his former earnestness. He reminded me that I had informed him in conversation, some time before, that you had expressed a desire to return home next spring or summer, and asked if such was still your intention. I told him I was not aware that you had changed your purpose; but that the President would, I had no doubt, request you to remain at Rio until the existing difficulty between the two Governments should be finally adjusted.

At three subsequent interviews which we held prior to the final adjustment of the controversy between the two Governments, Mr. Lisboa never alluded to the subject of your recall, and I had hoped that it would not be further pressed. For this reason, I did not refer to it in my despatch to you of the 2nd of February.

Late in the afternoon of that day, however, after my despatch to you had been concluded, Mr. Lisboa called at the Department and urged your recall. He read to me instructions which he had recently received from his Government, dated, as

he observed, after the baptism of the Imperial Princess and the fête of the Emperor's birthday, requiring him to present the request to the President, through the Secretary of State. Of these instructions, dated 16th November and 5th December, he subsequently furnished me copies. He said that the affair of Lieutenant Davis and the three sailors had now been happily adjusted and the request for your recall had no connexion with that controversy. It arose from a perfect conviction, on the part of the Imperial Government, that the friendship and harmony which they desired, above all things, to cultivate with the Government of the United States, were every moment in danger whilst so excitable a gentleman as yourself should continue to be the minister. That in consequence of your own conduct and that of Commodore Rousseau, by your advice, on the occasion of the baptismal and birthday fêtes, the Emperor had determined that you should never again be invited to Court: and he asked how a Minister could get along under such circumstances. He urged, that according to the established usage of nations, courtesy required that the President should not continue you at Rio against the protestations of the Imperial Government. He said they had no desire to wound your feelings in any manner. All they wished was that you should leave Rio; and if I could assure him that you would return to the United States at the time you yourself had designated, before the unpleasant occurrence in regard to Lieutenant Davis and the sailors, he thought it possible they would be satisfied. That the Brazilian Government had now done their duty in asking your recall; and if you should hereafter involve the two countries in new and serious disputes, the responsibility would rest, not upon them, but on the Government of the United States.

In reply, I stated that I had not anticipated such a formal and reiterated request for your recall, that I would submit the question to the President, and furnish him a specific answer. I observed that it was impossible to disguise the fact that this request arose out of the affair of the imprisonment of Lieutenant Davis and the sailors and was identified with this transaction. That the Brazilian Government, through his own agency, had but the day before made the amende honorable in regard to that affair, had expressed their regret at this disagreeable occurrence, and had promised to adopt the necessary means to prevent similar occurrences hereafter. That I felt confident the President would not cast such a censure upon you as your recall

would imply, for having performed your duty on that occasion. That the Brazilian Government had done you injustice in supposing that Commodore Rousseau had acted under your advice in refusing the accustomed honors on the baptismal and birthday fêtes, and that he was guided solely by his own sense of what was due to the national honor.

It was true, I stated, that you had requested permission to return home before this controversy had arisen, and as it had now been happily adjusted, the President might probably send a new minister to Brazil in the month of May, next, with the frigate destined to relieve Commodore Rousseau, and in that event, you would return with the latter to the United States. I stated, however, that I entertained no doubt the President in nominating your successor to the Senate, should he be appointed before the adjournment of Congress, would explicitly state that you had been recalled at your own request. I could, however, give him no certain information as to when you would probably leave Brazil, but would answer his inquiry after consulting the President.

On the 10th February, Mr. Lisboa called again at the Department of State, when I read to him from a written paper the President's answer to his request, as follows:

"The request presented by you to the President in behalf of the Brazilian Government, that he would recall Mr. Wise, has been under his serious consideration, and he has instructed me to give you the following answer:

"After a mature consideration of all the circumstances arising from the imprisonment of Lieutenant Davis and the American sailors by the local authorities at Rio de Janeiro, he does not believe that he could recall Mr. Wise without by implication, at least, subjecting him to a censure which in the President's opinion he does not deserve, for his conduct on that occasion. The President has arrived at this determination notwithstanding his anxious desire to cultivate the most friendly relations with the Government of Brazil. He trusts that any unpleasant impressions produced by this affair may speedily pass away and be forgotten, and that during the remainder of Mr. Wise's residence at the Imperial Court, nothing may occur to interrupt the harmony which ought ever to subsist between the two nations.

"In answer to your inquiry when it is expected Mr. Wise will return from his mission, I am instructed to inform you, that some time ago and long before the imprisonment of Lieu-

tenant Davis, that gentleman had asked to be recalled, and the President had determined to accede to his request. This affair having been happily adjusted between the two governments, the President will not change his original determination. A vessel of war will, therefore, proceed from the United States to Rio during the next spring, (probably in April or May) and will carry out a new minister to Brazil. Soon after his arrival, Mr. Wise will return to the United States in the Columbia with Commodore Rousseau, whose term of service will then have expired."

Mr. Lisboa expressed much regret at this answer and said he would address me a formal note upon the subject, so that he might have it in an authentic form to transmit to his Government. I told him that his note should be immediately answered in the language of the paper which I had just read to him, but suggested that, in my opinion, any further proceeding in this matter on his part, without producing any good effect, might tend to embarrass the relations between the two countries, which we desired might always be of the most friendly character. He said he would take the subject into consideration; and the result is that he has never presented the note.

On the 15th February and on more than one occasion subsequently, he has urged me to authorize him to say to the Brazilian Minister for Foreign Affairs, simply that you would return to the United States, without adding either that the President would not recall you, or that you would be recalled on your own request. This I uniformly refused, stating that I could not vary the answer, in any respect, which I had read to him, under the instruction of the President.

Accordingly, on the 2nd March, David Tod of Ohio was nominated to the Senate as Minister to Brazil "*in place of Henry A. Wise, recalled at his own request,*" and the nomination was confirmed on the following day.

Neither the time of Mr. Tod's departure nor the vessel which will take him to Rio has yet been designated, though she may probably sail during the month of May. It is the President's request that you should continue at your post and perform the duties of the mission until his arrival and presentation to the Emperor. Your letter of recall will be transmitted to you by Mr. Tod.

It is due to Mr. Lisboa to remark that in executing the instructions of his Government, he has uniformly conducted

himself with great propriety and has throughout manifested a strong desire to preserve the most friendly relations between the two Governments.

I am, Sir, very respectfully, your obedient servant,

JAMES BUCHANAN.

P. S. No despatch of a date subsequent to that of your No. 54 has been received at this Department.

To H. A. WISE, ESQUIRE, &c., &c., &c.

TO MR. JEWETT.¹

(No. 9.)

DEPARTMENT OF STATE,

WASHINGTON, 30th March, 1847.

To A. G. JEWETT, ESQUIRE,
&c., &c., &c.

SIR:

You state in your despatch No. 15 of the 10th December, last, that it was rumored the Peruvian Government was making preparations to pay the first instalment due under the modified Convention of March, 1841. If, before this letter reaches you, that payment and also the one due in January, last, should have been made and you should not have remitted the amount to this country, you will pay the money to Messrs. Edward McCall & Co. of Lima, Navy Agents of the United States, taking their receipt for the same. They have been empowered by the President to collect such of the instalments as are due and may hereafter become due, and, under instructions from the Navy Department, are to disburse the funds on account of our squadron in the Pacific, instead of remitting them to the United States.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Peru, XV. 54. Mr. Jewett was commissioned, from Maine, March 13, 1845, as chargé d'affaires to Peru. Having been recalled, he left Lima July 21, 1847.

TO MESSRS. BOGART & KNEELAND ET AL.¹

DEPARTMENT OF STATE,

WASHINGTON, April 9th, 1847.

MESSRS. BOGART & KNEELAND, THADDEUS PHELPS & Co., JACOB
IDLER and BENJAMIN L. SWANN (New York.)

GENTLEMEN:

Your letter of the 18th ultimo was duly received. The delay in answering it has been occasioned by the omission of the appropriate clerk to bring it to my notice in proper time.

I regret that an instruction to Mr. Shields of the character to which you refer cannot with propriety be given. It is contrary to the practice of this Department to demand payment on behalf of private claimants in a case of contract entered into by citizens of the United States with a foreign government. In contracting with such governments, our citizens necessarily incur the risk of their insolvency or unwillingness to perform their contracts. If the United States should, in such cases, undertake to collect the debts due to individuals, we should be constantly engaged in strife with the rest of the world. When torts are committed by foreign governments against the persons or property of our citizens, this government promptly demands redress; but in regard to contracts the case is different. I heartily wish, however, that you may speedily obtain the amount due to you on the judgment which you have recovered in the Supreme court of Venezuela, and to this end, I have addressed the accompanying despatch, under a flying seal, to Mr. Shields, informing him, according to your request, of the power which you have conferred upon Mr. Connell, and asking him to aid that gentleman in any manner he can, without officially interfering in his behalf.

I am, Gentlemen, with great respect,
your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 230.

TO MR. DURANT.¹

DEPARTMENT OF STATE,

WASHINGTON, April 12, 1847.

THOMAS J. DURANT, ESQR.

(U. S. District Attorney, New Orleans.)

SIR:

From information just communicated to this Department by Mr. Pageot there is reason to apprehend that measures will be taken in New Orleans to obtain the discharge of Legendre, in regard to whom an order of extradition, given by the President, issued from this Department on the 23d ultimo, directed to the Marshal of the U. S. for the District of Louisiana.

You will immediately institute an inquiry in regard to this matter, and strenuously oppose any proceedings having for their object the enlargement of the accused, or to delay his departure for France. If Legendre shall have been liberated before this letter reaches you, or shall subsequently be, in despite of your efforts to the contrary, you will take prompt measures to have him again arrested and committed to prison, as a fugitive from justice—there to await the further directions of the President in relation to his case.

I am, Sir, very respectfully &c.

JAMES BUCHANAN.

TO THE MEXICAN MINISTER OF FOREIGN
RELATIONS.²

DEPARTMENT OF STATE,

WASHINGTON, 15 April, 1847.

SIR: I have the honor to acknowledge the receipt of Your Excellency's note of the 22nd February, last, in answer to mine of the 18th of January, proposing on the part of the President of the United States immediately to "despatch either to the Havana or Jalapa, as the Mexican Government may prefer, one or more of our most distinguished citizens as Commissioners clothed with full powers to conclude a Treaty of Peace with similar Commis-

¹ MSS. Department of State, 36 Domestic Letters, 231.

² MSS. Department of State, Communications to Foreign Sovereigns and States, III. 28; S. Ex. Doc. 1, 30 Cong. 1 Sess. 38; H. Ex. Doc. 8, 30 Cong. 1 Sess. Appendix, 39.

sioners on the part of Mexico, as soon as he shall be officially informed that the Mexican Government will appoint such Commissioners."

The President deeply regrets the refusal of the Mexican Government to accede to this friendly overture, "unless the raising of the blockade of our [the Mexican] ports and the complete evacuation of the territory of the Republic by the invading forces shall be previously accepted as a preliminary condition."

The President has instructed me to inform you that this "preliminary condition" is wholly inadmissible. Such a condition is neither required by the honor, nor sanctioned by the practice, of nations. If it were, this would tend to prolong wars, especially between conterminous countries, until the one or the other power was entirely subdued. No nation which, at the expenditure of blood and treasure, has invaded its enemy's country, and acquired possession of any considerable portion of his territory, could ever consent to withdraw its forces as a preliminary condition to the opening of negotiations for peace. This would be at once to abandon all the advantages it had obtained in the prosecution of the war, without any certainty that peace would result from the sacrifice. Nay, more, should such a negotiation prove unsuccessful, the nation which had thus imprudently withdrawn its forces from the enemy's territory might not be able to recover, without a cost of blood and treasure equal to that first expended, the advantageous position which it had voluntarily abandoned.

Fortunately for the cause of peace and humanity, the history of nations at war affords no sanction to such a preliminary condition. The United States are as jealous of their national honor as any power on the face of the earth; and yet it never entered into the contemplation of the great statesmen who administered our Government during the period of our last war with Great Britain, to insist that the latter should relinquish that part of our territory of which she was in actual possession before they would consent to open negotiations for peace. On the contrary, they took the initiative and appointed Commissioners to treat for peace whilst portions of our country were held by the enemy, and it is a remarkable fact that the Treaty of Ghent was concluded by the Plenipotentiaries of the two Powers whilst the war was raging on both sides; and the most memorable of the conflicts to which it gave rise took place upon our own soil after the negotiators had happily terminated their labors. History is full of such examples. Indeed, so far as the Undersigned is aware, there is

not to be found, at least in modern times, a single case except the present, in which it has been considered a necessary preliminary that an invading army should be withdrawn before negotiations for peace could commence between the parties to the war.

It would, also, be difficult to find a precedent for the course pursued by the Mexican Government in another particular. The President, anxious to avoid the war now existing, sent a Minister of Peace to Mexico, for this purpose. After the Mexican forces had attacked the army of General Taylor on this side of the Rio Grande and thus commenced the war, the President, actuated by the same pacific spirit, made repeated overtures to the Government of Mexico, to negotiate for its termination. And although he has, from the beginning, solemnly declared before the world that he desired no terms but such as were just and honorable for both parties, yet the Mexican Government, by refusing to receive our Minister in the first place and afterwards by not acceding to our overtures to open negotiations for peace, has never afforded to this Government even the opportunity of making known the terms on which we would be willing to settle all questions in dispute between the two Republics. The war can never end whilst Mexico refuses even to hear the proposals which we have always been ready to make for peace.

The President will not again renew the offer to negotiate, at least until he shall have reason to believe that it would be accepted by the Mexican Government. Devoted, however, to honorable peace, he is determined that the evils of the war shall not be protracted one day longer than shall be rendered absolutely necessary by the Mexican Republic. For the purpose of carrying this determination into effect, with the least possible delay, he will forthwith send to the headquarters of the army in Mexico, Nicholas P. Trist, Esq., the officer next in rank to the Undersigned in our Department of Foreign Affairs, as a Commissioner, invested with full powers to conclude a definitive Treaty of Peace with the United Mexican States. This gentleman possesses the entire confidence of the President and is eminently worthy of that of the Mexican Government.

The Undersigned refrains from all comment upon the concluding paragraph, as well as some other portions of Your Excellency's note; because the strong sense which he entertains of their injustice towards the United States could not be uttered in the friendly tone which he desires to preserve in the present communication. He turns from these, therefore, to dwell, as he does with unfeigned pleasure, upon the sentiment contained

in an early part of the same note, where the Mexican Government expresses how painful it is "to see disturbed the sincere friendship which it cultivated with your [our] Republic, whose continued progress it has always admired, and whose institutions have served it as a model."

This feeling is most cordially reciprocated by the President, whose earnest desire it is, that the United Mexican States, under institutions similar to our own, may protect and secure the liberty of their people, and maintain an elevated standing among the nations of the earth.

The Undersigned embraces this occasion to offer to Your Excellency the assurance of his most distinguished consideration.

JAMES BUCHANAN.

To HIS EXCELLENCY, THE MINISTER OF FOREIGN RELATIONS
OF THE MEXICAN REPUBLIC.

TO THE MEXICAN MINISTER OF FOREIGN
RELATIONS.¹

[April 15, 1847.]

To HIS EXCELLENCY, THE MINISTER OF FOREIGN RELATIONS
OF THE MEXICAN REPUBLIC.

SIR:

The President of the United States, animated by a strong desire to reestablish peace and good understanding between the two countries, and to renew the ties of friendship in which they should forever remain united, has appointed Nicholas P. Trist, Esqr: a Commissioner of the United States of America to proceed to Mexico. I have the honor to introduce him to Your Excellency, and to ask for him a reception and treatment corresponding to his station and to the purposes for which he is sent. Those purposes he will in due time more particularly explain to Your Excellency. Hoping that, through his agency, they may be accomplished, I avail myself of this occasion to offer to Your Excellency the assurance of my very distinguished consideration.

JAMES BUCHANAN.

DEPARTMENT OF STATE,
WASHINGTON, 15th April, 1847.

¹ MSS. Department of State, Credences, III. 213.

TO MR. TRIST.¹

(No. I.)

DEPARTMENT OF STATE,

WASHINGTON, 15th April, 1847.

SIR: Since the glorious victory of Buena Vista and the capture of Vera Cruz and the Castle of San Juan d'Ulloa by the American arms, it is deemed probable that the Mexican Government may be willing to conclude a Treaty of Peace with the United States. Without any certain information, however, as to its disposition, the President would not feel justified in appointing public Commissioners for this purpose and inviting it to do the same. After so many overtures rejected by Mexico, this course might not only subject the United States to the indignity of another refusal, but might, in the end, prove prejudicial to the cause of peace. The Mexican Government might thus be encouraged in the mistaken opinion which it probably already entertains respecting the motives which have actuated the President in his repeated efforts to terminate the war. He deems it proper, notwithstanding, to send to the Head Quarters of the Army a confidential agent fully acquainted with the views of this Government and clothed with full powers to conclude a Treaty of Peace with the Mexican Government, should it be so inclined. In this manner he will be enabled to take advantage, at the propitious moment, of any favorable circumstances which might dispose that Government to peace. The President, therefore, having full confidence in your ability, patriotism and integrity, has selected you as a Commissioner to the United Mexican States to discharge the duties of this important mission: and for your services in this capacity, you will be allowed the outfit and salary of a Chargé d'Affaires.

You are herewith furnished with a Project of a Treaty, (marked A,) embraced in eleven articles and founded upon just and liberal principles towards Mexico; which, together with your instructions, you may communicate confidentially to Major General Scott and Commodore Perry.

Should a Mexican Plenipotentiary meet you, duly authorized

¹ MSS. Department of State, Instructions, Mexico, XVI. 86; S. Ex. Doc. 52, 30 Cong. 1 Sess. 81; H. Ex. Doc. 69, 30 Cong. 1 Sess. 43. Nicholas P. Trist, of Virginia, who had held the position of chief clerk of the Department of State since Aug. 28, 1845, was sent, April 15, 1847, as a commissioner to Mexico to conclude a treaty of peace. Though he had been recalled, he signed such a treaty, February 2, 1848, and it was ratified.

by his Government to conclude a Treaty of Peace, you will, after a mutual exchange of your full powers, deliver him a copy of this Projet with the sum in blank contained in the 5th article, as a consideration for the extension of our boundaries, and inform him that you are prepared to sign it on behalf of the Government of the United States, as soon as the sum with which the blank is to be filled shall be agreed upon by the parties. This sum ought to be as much below the fifteen millions mentioned in the article, as you can accomplish. Considering the heavy expenses and sacrifices of the war on our part, and the brilliant success of our arms, as well as the large amount which, under the projet, this Government has assumed to pay our own citizens for claims due to them by Mexico, justice would seem to require that the Treaty should not stipulate for the payment of any very large sum. You may in conversation with him ascertain what change in the terms of the projet the Mexican Government would require; and if this should become indispensable to attain the object, you may modify these terms, including the amount to be paid to Mexico, in the following particulars.

1. Instead of fifteen millions of dollars stipulated to be paid by the fifth article for the extension of our boundary over New Mexico and Upper and Lower California, you may increase the amount to any sum not exceeding thirty millions of dollars, payable by instalments of three millions per annum; provided the right of passage and transit across the Isthmus of Tehuantepec, secured to the United States by the eighth article of the projet, shall form a part of the Treaty.

2. Whilst it is of the greatest importance to the United States to extend their boundaries over Lower California as well as New Mexico and Upper California, you are not to consider this as a sine qua non to the conclusion of a Treaty. You will, therefore, not break off the negotiation if New Mexico and Upper California can alone be acquired. In that event, however, you will not stipulate to pay more than twenty millions of dollars for these two Provinces, without the right of passage and transit across the Isthmus of Tehuantepec.

3. You are authorized to stipulate for the payment of any sum not exceeding twenty five millions of dollars for New Mexico and Upper California, without Lower California, provided the stipulation securing the right of passage and transit across the Isthmus of Tehuantepec shall be retained in the Treaty; or if this should be stricken out, you are authorized to stipulate

for the payment of the like sum of twenty five millions of dollars for Lower California in addition to New Mexico and Upper California.

Should Lower California not be embraced in the Treaty, then it will become necessary to change the delineation of boundary contained in the fourth article of the projet in the following manner: Instead of the concluding words "to the Pacific Ocean," let it read, "to a point directly opposite the division line between Upper and Lower California; thence, due west, along the said line which runs north of the parallel of 32° and South of San Miguel to the Pacific Ocean: and the vessels and citizens of the United States shall in all time to come have free and uninterrupted access to and from the ocean through the Gulf of California from and to their possessions north of the said division line."

You will not fail to observe that the sums of thirty, twenty and twenty five millions of dollars, respectively, which you are authorized to offer, are all maximums; and you will not go to the extent of either, unless you shall find this absolutely necessary to the conclusion of a Treaty. You will not exceed the fifteen millions of dollars contained in the fifth article of the Projet until you shall have good reason to believe that the Mexican Government would break off the negotiation unless it should be increased; and in departing from this sum, you will go as little beyond it as practicable.

Whilst it would be most convenient for the Treasury of the United States to pay any sum for which you may stipulate in annual instalments of three millions each, yet this is not indispensable. If necessary, therefore, to the conclusion of the Treaty, you may agree that, for the remainder of the sum, above the three millions of dollars to be paid upon its ratification by Mexico, the Government of the United States shall create a six per cent. stock, similar to that created for the purchase of Louisiana, to be transferred to the Government of Mexico, the interest on the same to be payable annually at the City of Washington, and the principal to be redeemable there at the pleasure of this Government any time after two years from the exchange of ratifications.

Should this stock not be created, then, if insisted upon by the Mexican Government, each of the annual instalments may bear an interest of six per cent., but the interest on each instalment to be payable only when the principal shall be paid.

If you can obtain the postponement of the payment of the whole or any part of the three millions of dollars stipulated to be paid by the projet immediately after the ratification of the Treaty by Mexico until the ratifications shall have been exchanged, this would be highly satisfactory to the President.

The rights of the persons and property of the inhabitants of the territory over which the boundaries of the United States shall be extended, will be amply protected by the Constitution and laws of the United States. An article, therefore, to secure these rights has not been inserted in the projet: but should this be deemed necessary by the Mexican Government, no strong objection exists against inserting in the Treaty an article similar to the third article of the Louisiana Treaty. It might read as follows: "The inhabitants of the territory over which the jurisdiction of the United States has been extended by the fourth article of this Treaty, shall be incorporated in the Union of the United States and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time, they shall be maintained and protected in the free enjoyment of their liberty, property and the religion which they profess."

In the event of the insertion of this article, it would be proper to add to it the following: "Provided that all grants or concessions whatever of any lands, made or issued by the Mexican Government, since the thirteenth day of May, one thousand eight hundred and forty six, within the said territory, shall be absolutely null and void." The date might if necessary be changed from the day when Congress recognized the existence of the war, to the month of September, 1846, when the American forces took possession of California.

The extension of our boundaries over New Mexico and Upper California for a sum not exceeding twenty millions of dollars, is to be considered a sine qua non of any Treaty. You may modify, change or omit the other terms of the Projet, if needful, but not so as to interfere with this ultimatum.

If you should not succeed in accomplishing the chief object of your mission, you are authorized to make the necessary preliminary arrangements with the Mexican Government for the conclusion of a Treaty of Peace by Commissioners to be appointed by both parties, according to the proposition contained in my note of the 18th January, last, to the Mexican Minister of

Foreign Relations: provided a reasonable prospect shall exist that such Mexican Commissioners will agree to the ultimatum which I have specified.

So rapidly does revolution follow revolution in Mexico, that it would be difficult to conjecture what form of Government you may find in existence over that ill-fated country, on your arrival at the Head Quarters of the Army. The Constitution of 1824 may then have been abolished and a dictatorship be again existing in its stead. You will not hesitate, however, to conclude a Treaty with whatever Government you shall find there upon your arrival, provided it presents a reasonable prospect of being able to maintain itself. Should a Dictator be established who has subverted the Constitution of 1824 and acquired the supreme power, his ratification of the Treaty will be sufficient without the previous approbation of the General Congress. Were this Government to refuse to conclude a Treaty of Peace until the Mexican Government shall assume any permanent constitutional form, the war might yet continue for many years to come.

If the contingency shall occur on the happening of which, as provided by the third article of the proposed Treaty, hostilities are required to be suspended, you will, without delay, communicate this fact to the commanders of our land and naval forces respectively; the Secretaries of War and the Navy having already issued orders to them for the suspension of hostilities upon the receipt of such a notice from yourself.

You will herewith receive a certificate from the Secretary of the Treasury that your draught in favor of the Mexican Government for the whole or any part of the three millions of dollars appropriated by the Act of Congress of the 3d March, 1847, entitled "An Act making further appropriation to bring the existing war with Mexico to a speedy and honorable conclusion," will be duly honored. You will be exceedingly careful not to draw for any part of this sum until the conditions required by that Act shall have been fully complied with and the Treaty which you may sign with the authorized agent or agents of the Mexican Government has been "duly ratified by Mexico." As the disbursement of so large a sum is a matter of great importance, you should use every precaution to be certain that your draughts shall be drawn in favor of the proper functionary of the Mexican Government and the whole business transacted in such a manner that no difficulty can hereafter arise on the subject. You will take receipts in triplicate for any draught or draughts which you

draw, which ought, if possible, to be signed by the President of Mexico and countersigned by the Minister of Finance.

I am, Sir, with great respect, your obedient servant

JAMES BUCHANAN.

To NICHOLAS P. TRIST, ESQUIRE,
&c., &c., &c.

A. PROJET.

The United States of America and the United Mexican States, desirous of terminating the war which has unhappily subsisted between the two Republics, and of restoring peace, friendship and good understanding between them, have, for that purpose, appointed their respective Plenipotentiaries, that is to say, the President of the United States has appointed Nicholas P. Trist, &c. &c. &c. and —— who, after a reciprocal communication of their respective full powers, have agreed upon the following articles.

ARTICLE I.

There shall be a firm and universal peace between the United States of America and the United Mexican States, and between their respective countries, territories, cities, towns and people, without exception of places or persons. All hostilities, both by sea and land, shall definitively cease, so soon as the ratifications of this Treaty shall have been exchanged by the parties.

ARTICLE II.

All prisoners of war taken on either side, as well by land as by sea, shall be restored as soon as practicable after the exchange of the ratifications of this Treaty.

ARTICLE III.

So soon as the present Treaty shall have been duly ratified by the United Mexican States, this fact shall be made known with the least possible delay to the military and naval commanders of both parties, whereupon a suspension of hostilities shall take place, both by land and by sea, as well on the part of the military and naval forces of the United States as on the part of those of the United Mexican States, and the said suspension of hostilities shall be inviolably observed on both sides. Immediately after the exchange of the ratifications of the present treaty, all the forts, territories, places and possessions whatsoever taken by the United States from the United Mexican States during the war, except such as are embraced within the limits of the United States as defined by the fourth article of this Treaty, shall be restored without delay, and without causing any destruction or carrying away any of the artillery or other public property originally captured in the said forts or places, and which shall remain therein upon the exchange of the ratifications of this Treaty. And in like manner, all the forts, territories, places and possessions whatsoever taken by the United Mexican States from the United States during the war, and, also, all such forts, territories, places and possessions embraced within the limits of the United States under the fourth

article of this Treaty, shall be restored, evacuated and delivered over to the United States without delay, and without causing any destruction or carrying away any of the artillery or other public property from the said forts or places, and which shall remain therein upon the exchange of the ratifications of this Treaty.

ARTICLE IV.

The boundary line between the two Republics shall commence in the Gulf of Mexico three leagues from the land opposite the mouth of the Rio Grande, from thence up the middle of that river to the point where it strikes the Southern line of New Mexico, thence Westwardly along the Southern boundary of New Mexico to the South Western corner of the same, thence Northward along the Western line of New Mexico until it intersects the first branch of the River Gila, or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch and thence in a direct line to the same and down the middle of said branch and of the said River until it empties into the Rio Colorado, thence down the middle of the Colorado and the middle of the Gulf of California to the Pacific Ocean.

ARTICLE V.

In consideration of the extension of the boundaries of the United States as defined by the last preceding article, the United States agree to pay to the United Mexican States, at the City of Vera Cruz, the sum of fifteen millions of dollars, in five equal annual instalments, each of three millions of dollars, the first instalment to be paid immediately after this Treaty shall have been duly ratified by the Government of the United Mexican States.

ARTICLE VI.

As a further consideration for the extension of the boundaries of the United States as defined by the fourth article of this Treaty, the United States agree to assume and pay to the claimants all the instalments now due or hereafter to become due, under the Convention between the two Republics concluded at the City of Mexico on the 30th day of January, 1843, "further to provide for the payment of awards in favor of claimants under the Convention between the United States and the Mexican Republic of the 11th April, 1839." And the United States also agree to assume and pay, to an amount not exceeding three millions of dollars, all claims of citizens of the United States not heretofore decided against the Government of the United Mexican States, which may have arisen previous to the thirteenth of May, 1846, and shall be found to be justly due by a Board of Commissioners to be established by the Government of the United States, whose awards shall be final and conclusive: provided, that in deciding upon the validity of these claims, the Board shall be guided and governed by the principles and rules of decision prescribed by the first and fifth articles of the unratified Convention concluded at the City of Mexico, on the 20th day of November, A. D. 1843; and in no case shall an award be made in favor of any claim not embraced by these principles and rules. And the United States do hereby forever discharge the United Mexican States from all liability for any of the said claims, whether the same shall be rejected or allowed by the said Board of Commissioners.

ARTICLE VII.

If in the opinion of the said Board of Commissioners, or of the claimants, any books, records or documents in the possession or power of the Government of the United Mexican States shall be deemed necessary to the just decision of any of said claims, the Commissioners, or the claimants through them, shall, within such period as Congress may designate, make a demand in writing for the same, addressed to the Mexican Minister for Foreign Affairs, to be transmitted by the Secretary of State of the United States; and the Mexican Government engages, at the earliest possible moment after the receipt of such demand, to cause any of the said books, records or documents in their possession or power, which shall be specified, to be transmitted to the said Secretary of State, who shall immediately deliver them over to the said Board of Commissioners: Provided that no such demand shall be made at the instance of any claimant, until the facts which it is expected to prove by such books, records or documents, shall first have been stated, under oath or affirmation.

ARTICLE VIII.

The Government of the United Mexican States hereby grant and guaranty forever to the Government and citizens of the United States, the right to transport across the Isthmus of Tehuantepec, from sea to sea, by any modes of communication now existing whether by land or water, free of any toll or charges whatever, all and any articles, the growth, produce or manufacture of the United States or of any foreign country, belonging to the said Government or citizens; and also the right of free passage over the same to all citizens of the United States. And the Government of the United Mexican States, also, grant and guaranty to the Government and citizens of the United States the same right of passage for their merchandize and articles aforesaid as well as for such citizens over any rail road or canal which may hereafter be constructed across the said Isthmus by the Government of the United Mexican States or by its authority, paying no more than fair and reasonable tolls for the same; and no higher tolls and charges shall be levied and collected upon any of the before mentioned articles and merchandize belonging to the Government or citizens of the United States or upon the persons of such citizens, for passing over the said rail road or canal, than shall be levied and collected upon like articles and merchandize belonging to the Government or citizens of Mexico, being the growth, produce and manufacture of Mexico or of any foreign country, or upon the persons of such citizens. And none of the said articles whatever belonging to the Government or citizens of the United States, thus passing in transit over the said Isthmus from sea to sea, either by the existing modes of communication or over any rail road or canal which may hereafter be constructed, in either direction, for the purpose of being transported to any port of the United States or of any foreign country, shall be liable to any import or export duty whatever. The two Governments hereby engage, with as little delay as possible, mutually to agree upon such regulations as may be necessary to prevent fraud and smuggling, in consequence of the right of passage thus granted and perpetually guarantied to the Government and citizens of the United States.

ARTICLE IX.

All goods, wares or merchandize which shall, during the war, have been imported into any of the ports or places of either party whilst in the military occupation of the other, by the citizens of either, or by the citizens or subjects of any neutral Power, shall be permitted to remain exempt from confiscation, or from any tax or duty upon the sale or exchange of the same, or upon the withdrawal of the said property from the country: and the owners thereof shall be permitted to sell and dispose of the said property in the same manner, in all respects whatever, as if it had been imported into the country in time of peace and had paid the duties under the laws of either party, respectively.

ARTICLE X.

The Treaty of Amity, Commerce and Navigation concluded at the City of Mexico on the 5th day of April, A. D. 1831, between the United States of America and the United Mexican States, and every article thereof, with the exception of the additional article, are hereby revived for the period of eight years from the day of the exchange of the ratifications of this Treaty, with the same force and virtue as if they made part of the context of the same; it being understood that each of the contracting parties reserves to itself the right, at any time after the said period of eight years shall have expired, to terminate the same by giving one year's notice of such intention to the other party.

ARTICLE XI.

This Treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by the President of the United Mexican States, with the previous approbation of their General Congress: and the ratifications shall be exchanged in the City of Washington within six months from the date of the signature hereof, or sooner, if practicable.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in Duplicate at _____ the _____ day of A. D. one thousand eight hundred and forty seven.

TO MR. WALKER.¹

DEPARTMENT OF STATE,

WASHINGTON 15th April 1847.

SIR: The President as you are aware has appointed Nicholas P. Trist Esquire Commissioner to conclude a Treaty of peace with Mexico, who will immediately proceed upon his mission. As it may become necessary for him whilst abroad to draw upon the Treasury, in favor of the Mexican Government,

¹ MSS. Department of State, 36 Domestic Letters, 479; S. Ex. Doc. 52, 30 Cong. 1 Sess. 107.

for the whole or a part of the sum of three millions of dollars appropriated by the Act of Congress approved March 3, 1847, entitled "An Act making further appropriation to bring the existing war with Mexico to a speedy & honorable conclusion," I deem it expedient that he should carry with him some testimonial from yourself, to show that his draft will be honored. I would thank you, therefore, to prepare & transmit to me such a testimonial.

Yours, very respectfully,

HON: ROBERT J. WALKER

JAMES BUCHANAN.

Secretary of the Treasury.

TO MR. MORRIS.¹

DEPARTMENT OF STATE,

WASHINGTON, April 16, 1847.

RICHARD R. MORRIS, ESQR.

(Hamburg, Sussex Co., N. J.)

SIR:

Your letter of the 7th instant, inquiring whether the claim of Mr. Robert A. Linn against the Mexican government cannot be provided for in a treaty which may be concluded between the United States and that republic, has been received. In reply, I have to state, that the claim referred to appears to be founded upon certain military services rendered by the claimant to Mexico, and may, therefore, be considered as in the nature of a contract. It is contrary to the practice of this Department to interpose officially for the adjustment of claims of citizens of the United States of that character. In forming the contract with the foreign government the party must be presumed to have had in view both the ability and the disposition of such government to comply with its engagement. If we were to undertake the collection of debts of that description, we should be engaged in perpetual strife with all the world. Whenever injuries have been inflicted upon the persons or property of our citizens, by the authorities of a foreign government, this government promptly interposes for the purpose of obtaining redress. A claim in a case of contract stands upon a very different footing.

I am &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 235.

PROCLAMATION OF PRESIDENT POLK
ON COMMERCIAL INTERCOURSE WITH ST. PIERRE AND MIQUELON.¹

[April 20, 1847.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, by an act of the Congress of the United States, approved the third day of March, one thousand eight hundred and forty-five, entitled "An act regulating commercial intercourse with the islands of Miquelon and St. Pierre," it is provided that all French vessels coming directly from those islands, either in ballast or laden with articles the growth or manufacture of either of said islands, and which are permitted to be exported therefrom in American vessels, may be admitted into the ports of the United States on payment of no higher duties of tonnage, or on their cargoes aforesaid, than are imposed on American vessels and on like cargoes imported in American vessels, provided that this act shall not take effect until the President of the United States shall have received satisfactory information that similar privileges have been allowed to American vessels and their cargoes at said islands by the Government of France, and shall have made proclamation accordingly; and

Whereas satisfactory information has been received by me that similar privileges have been allowed to American vessels and their cargoes at said islands by the Government of France:

Now, therefore, I, James K. Polk, President of the United States of America, do hereby declare and proclaim that all French vessels coming directly from the islands of Miquelon and St. Pierre, either in ballast or laden with articles the growth or manufacture of either of said islands, and which are permitted to be exported therefrom in American vessels, shall from this date be admitted into the ports of the United States on payment of no higher duties on tonnage or on their cargoes aforesaid, than are imposed on American vessels, and on like cargoes imported in American vessels.

Given under my hand at the city of Washington, the twentieth day of April, A. D. one thousand eight hundred and forty-seven, and of the Independence of the United States the seventy-first.

JAMES K. POLK.

By the President:

JAMES BUCHANAN,
Secretary of State.

¹ United States Statutes at Large, IX. 1001.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, 21st April, 1847.

SIR: I have duly received the note which you did me the honor to address to me on the 17th ultimo, recalling to my "recollection the present state of the Disputed Territory Fund, as relates to the fulfilment of the provisions of the 5th article of the treaty of Washington." You observe, with reference to the irregularity which has taken place in paying over and delivering to the Agents of Maine and Massachusetts, instead of the General Government, the money found to be due to those States and the bonds and securities appertaining thereto, that the stipulations of that article "have thus been essentially fulfilled, but that, in point of form, it seems that something is still wanting to render the manner of concluding this business more literally conformable to the provisions of the treaty."

In submitting this point for consideration, you add, "that if the termination of the matter, as it now stands, should appear to the Government of the United States to amount to a full and sufficient fulfilment of the engagements of the treaty, Her Majesty's Government will not be disposed to raise any question on account of the trifling informality which has been committed."

Before and since the receipt of your letter, I have communicated on this subject with the Governors of the States of Massachusetts and Maine, and now feel authorized to inform you that the payment and delivery made in September last to Messrs. Hodgdon and Coffin, as the Agents of those States, of the money found to be due to said States, and of the bonds and securities appertaining to the Disputed Territory Fund, are regarded by this Government to be a substantial fulfilment of the obligations contracted by the British Government under the 5th article of the treaty of Washington.

I beg you to accept the renewed assurance of my distinguished consideration.

JAMES BUCHANAN.

RIGHT HONBLE. R. PAKENHAM, &c., &c., &c.

¹ MSS. Department of State, Notes to Great Britain, VII. 155; S. Ex. Doc. 63, 37 Cong. 2 Sess. 3.

TO MR. WILLIAMS.¹

DEPARTMENT OF STATE,

WASHINGTON April 21st 1847.

JOHN B. WILLIAMS ESQRE.

U. S. C. Bay of Islands.

SIR,

Your Despatches to No. 43 inclusive, *No. 40 excepted*, have been received, together with all the papers referred to as enclosed excepting the following mentioned in No. 27, viz.: the Register of the Brig "Falco," & copies of the correspondence between yourself & the Colonial Secretary respecting the period at which the Customs Duties were abolished & subsequently levied, &c.

The satisfactory refutation afforded, both by your Agent, Mr. Polack, & yourself, of the charges implicating you in the Insurrection of the Natives at the Bay of Islands, against the British Government, in relation to which you were called on for explanations, in a letter addressed to you on the 12th of December 1845, I need scarcely say, has proved highly gratifying to the Department, and it gives me much pleasure to inform you that a Note has been received from H. B. M.'s Minister residing here, expressing the regret of Her Majesty's Government, that any misapprehension, on its part, should have existed as to your conduct in New Zealand. A copy of this Note is enclosed herewith.

In regard to the fact stated in the postscript to your Despatch No. 27, respecting your having granted a passport to the Cutter "Stranger" of Lynn, Mass: of the burthen of 9 Tons, it seems that you have acted without authority of law in granting the document mentioned, as no papers of any description could be legally granted to entitle said Craft to the privileges of an American Vessel, engaged in foreign Commerce, and I have therefore to request that you will carefully abstain from granting such papers in future.

Your drafts for \$237.30 & \$198.79 have been duly honored.

I am Sir &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Despatches to Consuls, XI. 559. See Mr. Buchanan to Mr. Williams, December 12, 1845, supra.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,
WASHINGTON, 22d April, 1847.

RIGHT HONBLE. RICHARD PAKENHAM,
&c., &c., &c.

SIR:

Referring to your letter to this Department, of the 27th of February last, signifying the acceptance by Her Majesty's Government of the offer contained in my note of the 15th October, 1846, in relation to a seaman named Matthew Nelson, who is represented to be a deserter from the British Navy, and now serving on board the United States corvette "St. Mary's," I have the honor to transmit to you a copy of the order which was addressed, on the 28th ultimo, to Commodore Perry, commanding the Home Squadron, for the discharge of the said Nelson.

I pray you to accept assurances of my high consideration.

JAMES BUCHANAN.

TO THE CHEVALIER TESTA.²

[April 22, 1847.]

The Secretary of State has the honor to acknowledge the receipt of the "*note verbale*" addressed to him under date of the 14th instant, by the Chargé d'Affaires of the Netherlands, in which he communicates the substance of a decree issued by the Government of Japan, in 1843, declaring, in the first place, that the transportation of shipwrecked Japanese subjects into their own country in other vessels than those of Holland or China would fail in its object, since if such shipwrecked subjects were brought in ships belonging to other nations they would not be received; and, secondly, renewing the warning that, as all unauthorized explorations of the coasts and Isles of Japan are forbidden to Japanese subjects by the laws of the Empire, those laws are also opposed to the explorations which foreigners might be inclined to make.

¹ MSS. Department of State, Notes to Great Britain, VII. 157.

² MSS. Department of State, Notes to Netherlands Legation, VI. 53.

The Secretary of State embraces this occasion to renew to the Chargé d'Affaires of his Netherlands' Majesty the assurance of his high consideration.

DEPARTMENT OF STATE,
WASHINGTON, 22d April, 1847.

THE CHEVALIER TESTA,
&c., &c., &c.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,
WASHINGTON, 23d April, 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have received your letter of the 20th instant enclosing a new decree of the Commandant of the Isles of St. Pierre and Miquelon, fixing the duties payable on vessels frequenting the ports of that colony. In making this communication, you invite attention to the fact that the "duty for interpreting," which was objected to in the first decree, is omitted in this—thereby establishing a complete assimilation between foreign and national vessels, and request that the necessary measures may be instituted to carry into effect the act of 3d March, 1845.

I have the honor to inform you, in reply, that the information contained in your letter, and its enclosure, has been deemed sufficient to meet the requisition of the law just referred to; and that the President has accordingly issued his proclamation, dated the 20th instant, giving effect to the provisions of the act of Congress of the 3d of March, 1845, "regulating commercial intercourse with the Islands of Miquelon and St. Pierre."

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to French Legation, VI. 101.

TO GENERAL SHIELDS.¹*Confidential.*

WASHINGTON 23 April 1847.

MY DEAR SIR/

I know you have often said to yourself what in the D—l is the matter with Buchanan. I have written him two letters & he has never sent me a line in answer. My apology is that my engagements have been of such a character as to leave me no time for private correspondence; but if by writing I could have rendered you any service, I should have left all & eagerly embraced the opportunity.

The succession of victories achieved in Mexico by our gallant armies have excited the enthusiasm of our people to the highest degree. "Honor to the brave" is the sentiment of all. Many of the Whig Journals seizing upon this national feeling, & regardless of the inconsistency which their conduct involves, have raised the name of General Taylor to their mast head as a candidate for the Presidency "subject to the decision of a Whig National Convention." This has been especially the case in Pennsylvania & more particularly in Philadelphia. The leading Whig paper, however, at Harrisburg has nominated General Scott, & he has many friends among the Whigs in the interior of the State.

General Taylor will not be supported, at least in the first instance, by the leading Whig politicians. The friends of Clay, M'Lean & Scott will not willingly abandon them. There may be a ground swell of the people, however, which will compel them all to unite in support of the victorious General. We have witnessed such an event in the case of General Jackson. There have not yet been sufficient developments to enable me to form a correct opinion on this subject; though appearances are now somewhat in favor of Taylor. It is an undoubted fact, at least in Philadelphia, that a number of soi disant & some real Democrats are disposed to raise his flag.

You desire to annex the Country on this side of the Sierra Madre Mountains to the United States. This would not be in accordance with public opinion in our country. How should we govern the mongrel race which inhabits it? Could we admit them to seats in our Senate & House of Representatives? Are they capable of Self Government as States of this Confederacy?

¹ Buchanan Papers, Historical Society of Pennsylvania.

Besides, the acquisition of that Territory would raise a terrible excitement on the question of slavery. Our friend General Cass was of opinion when he left Washington that for this reason we ought not to acquire any territory in California south of the line of the Missouri compromise. I do not concur with him in this respect. I would acquire the whole of upper & lower California if I could. Slavery in that region south of $36^{\circ} 30'$ can never become a question of any real importance from the character of the Country.

The Californias are comparatively uninhabited & will therefore be almost exclusively colonised by our own people. This is the safest mode of extending the boundaries of our Republic: and under existing circumstances, I doubt whether we should adopt any other. Of course I do not mean to embrace in these remarks the line of the Rio Grande & New Mexico which we must have.

It would be extremely desirable, if not indispensable, to obtain a right of passage across the Isthmus of Tehuantepec.

I have never seen your successor Judge Young since his arrival in this City. He has not called upon me, nor, I believe, upon any other person. It is a sad mistake in our public men¹ . . . & health & the advancement of your fame.

This letter will be delivered to you by Señor Atocha. He now goes to Mexico exclusively upon his own private business, not bearing any Despatches from the Government. When last he visited Mexico, he was entrusted with a Despatch from myself to the Mexican Minister of Foreign Affairs; *but was not charged with any Diplomatic Mission whatever*. He is a shrewd observing man; and I have seen abundant evidence that he is on terms of intimacy with Santa Anna, Almonte, Rejon & other Mexican leaders. He has a most impressive manner of conversation & may communicate useful information. I think he is to be trusted, but you will judge for yourself. His pecuniary interests are all on the side of peace with Mexico. I should feel indebted to you for any civilities which you may extend to him.

I have written you a long letter & might write at much greater length; but am called away by another engagement.

With sentiments of the warmest regard, I remain

Sincerely your friend

JAMES BUCHANAN.

GENERAL JAMES SHIELDS.

¹ At this point a leaf of the letter is missing.

TO MR. JONES.¹

WASHINGTON, April 23, 1847.

MY DEAR SIR:

I have this moment received your letter of the 15th inst., and hasten to return an answer.

In one respect, I have been fortunate as a public man. My political enemies are obliged to go back for more than thirty years to find plausible charges against me.

In 1814, when a very young man (being this day 56 years of age), I made my first public speech before a meeting of my fellow-citizens of Lancaster. The object of this speech was to urge upon them the duty of volunteering their services in defence of their invaded country. A volunteer company was raised upon the spot, in which I was the first, I believe, to enter my name as a private. We forthwith proceeded to Baltimore, and served until we were honorably discharged.

In October, 1814, I was elected a member of the Pennsylvania legislature; and in that body gave my support to every measure calculated, in my opinion, to aid the country against the common enemy.

In 1815, after peace had been concluded, I did express opinions in relation to the causes and conduct of the war, which I very soon after regretted and recalled. Since that period I have been ten years a member of the House of Representatives, and an equal time of the Senate, acting a part on every great question. My political enemies, finding nothing assailable throughout this long public career, now resort back to my youthful years, for expressions to injure my political character. The brave and generous citizens of Tennessee, to whatever political party they may belong, will agree that this is a hard measure of justice; and it is still harder that, for this reason, they should condemn the President for having voluntarily offered me a seat in his cabinet. I never deemed it proper, at any period of my life, whilst the country was actually engaged in a war with a foreign enemy to utter a sentiment which could interfere with its successful prosecution. Whilst the war with Great Britain was raging, I should have deemed it little better than moral treason to paralyze the arm of the government whilst dealing blows against the enemy. After peace was concluded, the case

¹ Horton's Life and Services of James Buchanan, pp. 21-22.

was then different. My enemies cannot point to an expression uttered by me, during the continuance of the war, which was not favorable to its vigorous prosecution.

From your friend, very respectfully,

JAMES BUCHANAN.

HON. GEORGE W. JONES.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, 27th April, 1847.

RIGHT HONBLE. RICHARD PAKENHAM,

&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 24th instant, informing me of the friendly intervention of Mr. Crompton, Her Majesty's Vice Consul at Islay, in behalf of Dr. Alexander Baring Norris, an American citizen who, in the absence of any public agent of his own nation, requested Mr. Crompton to protect him against an unlawful imprisonment; and stating that an official representation addressed to the Prefect of Arequipa by the Vice Consul, in favor of Dr. Norris, had resulted in the release of the Doctor, and the reprehension of the authorities concerned in his imprisonment.

I am directed by the President to express to you his high sense of the services rendered to Dr. Norris by Her Majesty's Vice Consul, on the occasion referred to; and to assure you of his just appreciation of the kindly dispositions evinced by Her Majesty's Government in communicating the facts connected with this case.

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Great Britain, VII. 158.

TO MR. SAUNDERS.¹

(No. 12.)

DEPARTMENT OF STATE,

WASHINGTON, 27th April, 1847.

ROMULUS M. SAUNDERS, ESQRE.,
&c., &c., &c.

SIR:

Your despatch No. 8, of the 13th February last, was received at this Department on the 8th instant.

You have adopted the wise course, in not alluding in conversation with the Minister for Foreign Affairs, to the subject of the mediation of the Spanish Government between the Republic of Mexico and the United States. As the President would not accept such a mediation, it had better not be formally offered. Of this, however, considering the present condition of Spain, there does not seem to be much probability.

Your despatch of the 15th March, No. 9, was received at the Department on the 23rd instant. The Spanish Government seem to have been extremely jealous of the course pursued by this Government in regard to the blockade of the Mexican ports. They will now, I trust, be satisfied; since these ports have been opened under Mr. Walker's Mexican Tariff, to the commerce of all neutral nations, upon fair and liberal terms.

No Government, except that of Spain, has complained of the manner in which Commodore Conner has enforced the blockade of the Mexican ports. In answer to Mr. Calderon's complaints upon this subject, I assured him emphatically in a note, dated 9th October last, "that the Government of the United States will carry fairly into execution the fifteenth and sixteenth articles of the Treaty of 1795, with Spain." That I was "only surprised that the Government of Spain should have intimated any doubts on this subject. The United States have never, under any circumstances, violated the faith of Treaties; and least of all would they feel inclined to do so towards Spain, after she has used such laudable efforts to execute, in good faith, the 14th Article of the same Treaty."

By the same note I informed him, that I would immediately cause to be transmitted to Commodore Conner, the Commander of the Naval Forces of the United States in the Gulf of Mexico, a copy of the complaints which he had submitted against the con-

¹ MSS. Department of State, Instructions, XIV. 219.

duct of that officer: and when his answer was received, I should have the honor of again addressing Mr. Calderon on the subject.

The answer of Commodore Conner was received at the Department on the 23rd February last, and very soon after was read to Mr. Calderon. It is of a character so convincing,—it proves so conclusively that the complaints on the part of Spain were not only without the least foundation, but that Spanish vessels had been treated with marked indulgence,—that Mr. Calderon, at the time, had not a word of objection to urge against it. I regret that a copy of it, with the accompanying documents, cannot now be made for you before the closing of the foreign mail to be sent by the Cambria. I transmit, however, a copy of Mr. Calderon's note to me of the 24th March last; from which you will perceive, how difficult he has found the task, even after a month's delay, of stating an objection to Commodore Conner's triumphant vindication.

In this note, Mr. Calderon, as you will perceive, objects to the interpretation given by Commodore Conner to the 15th and 16th Articles of the Treaty of 1795; because, under his construction, "they would be of no use, as they would have no other signification than to recall to mind a principle of national right generally recognized, to wit: the free trade of neutrals with the ports of enemies not blockaded." The answer to this objection is easy. These articles recognize the principle, that free ships shall make free goods; and under their stipulations, a vessel under the Spanish flag enjoys the right to carry the property of the enemy to any Mexican port not blockaded. This could not be done by English or French vessels, or by those of any other neutral nation to which a similar right has not been secured by Treaty.

I presume, however, we shall hear no more of these complaints.

In regard to Mr. Walker's Circular of the 16th December last, a copy of which I herewith transmit you, I have to observe, that the Spanish Government is the only one which has ever uttered a complaint against it. It is difficult to conceive how any Government can seriously entertain the opinion, that a belligerent who has acquired possession of an enemy's port, if he should trade with it himself, is bound, also, to open it to the commerce of all nations. No matter what the danger he may incur, he must admit the vessels of all neutral nations into a place which he has just conquered, and holds by mere military

possession. Barely to state the proposition is to give it a conclusive answer. It has no sanction either in the law or the practice of nations. In opening the ports of Mexico now in our possession to the trade of all nations, without the slightest discrimination in favor of our own tonnage or productions, the United States have shown unexampled liberality towards neutral commerce. We might still have continued to confine this trade to American vessels, without giving just cause of offence to any neutral nation.

It affords me pleasure to state, that I have been much gratified with the perusal of your note of the 13th August last to the Spanish Minister of Foreign Affairs, received at this Department with your despatch of the 13th February.

Your efforts to detect and prevent any attempts to fit out Mexican Privateers from the ports of Spain are cordially approved.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

P. S. I have learned that Mr. Calderon has been appointed a Senator of Spain. I trust that this appointment may not occasion his recall. Although he may have sometimes been unusually over-zealous in advocating the claims of his own Government, yet I should esteem his removal as a serious injury to both Countries.

TO MR. WICKLIFFE.¹

(No. 18.)

DEPARTMENT OF STATE,

WASHINGTON, 27th April, 1847.

ROBERT WICKLIFFE, JR., ESQRE.,
&c., &c., Turin.

SIR:

In your despatch of the 20th November last, after presenting, with much ability, the arguments which you might urge, if thus instructed, in reply to the note of the Sardinian Secretary of State for Foreign Affairs of the 28th October last, on the

¹ MSS. Department of State, Instructions, Italy, I. 38.

subject of the "Jeni Dunia," you suggest,—that you "ought to demand that this (the Sardinian) Government forthwith send instructions to the Sardinian Ambassador at Constantinople to entertain jurisdiction of Mr. Oscanyan's complaint; to award him the amount of damages and interest which he shall shew to be justly due him; and to inquire whether Mr. Berzolese has violated the penal code of Sardinia in falsely representing himself as the Agent of His Excellency Hussein Bey, and if so, to punish him accordingly."

This Government will not fail to afford just protection to citizens of the United States, wherever they may be found; but, before we make such demands from the Sardinian Government as you suggest, we ought to be clearly satisfied that we are in the right. Should we require that Government to issue the instructions which you recommend, to their Minister at Constantinople, and they should refuse, it would place the relations between the two countries in a most embarrassing, if not perilous, condition. It is, therefore, wise to be certain that we have right on our side before we place ourselves in a position from which it may be difficult honorably to retreat.

After a very careful and deliberate examination of Mr. Oscanyan's complaint, I have arrived at the conclusion, that, without a more full and particular statement of facts than has been furnished to the Department, I cannot interpose in the manner you suggest.

In your despatch of the 20th November last, you state that you had "written to Constantinople to obtain some information about this alleged custom, or fiction, which authorizes a man to appoint an agent to take possession of a boat, to which he has no earthly claim; and, also, to learn the reasons why Mr. Oscanyan declined an arbitrament." These are two important subjects of inquiry: and I had expected to receive information from you in regard to both. As you do not allude to them in your last despatch, I presume that you have failed to obtain the information which you sought.

If Hussein Bey, as the Turkish Minister of Commerce, assuming himself by a legal fiction to be the proprietor of the "Jeni Dunia," for the purpose of placing her under the control of the agents of her rightful owner, did transfer her possession from Mr. Oscanyan to Mr. Berzolese, then, it strikes me, there would be an end of the question. This may have been an unjust, as well as summary exercise of despotic power; but still, if it

were the act of the appropriate official authority, this would protect Mr. Berzolese for acting in obedience to it, against the claim of Mr. Oscanyan before the Sardinian Tribunal. His remedy would then be upon his charter party alone: and the Sardinian Minister at Constantinople would neither have the right nor the power to take cognizance of the question.

Under such circumstances, the Government of the United States might have just cause of complaint against the Turkish Government for dispossessing an American citizen of this Steam-boat, in this summary manner. Still, if the Steamer truly belonged to Messrs: Pecciotto, Mongredin, & Company, of London, by a regular transfer from Messrs: Farchi & Sidi, of Smyrna, before the date of the charter party to Mr. Oscanyan,—(and this does not seem to have been disputed, though the instrument of transfer has not been produced),—her delivery to Mr. Berzolese was the transfer of her possession to her rightful owners: and Mr. Oscanyan's remedy would be against the parties to the charter party who had undertaken to hire a vessel to him for which they had no title.

But the fact of the agency of Hussein Bey in this transaction is disputed on the ground of his subsequent declarations; and even if he never did interpose in the manner alleged, by what authority could the Sardinian Minister at Constantinople take jurisdiction of the case? Certainly not under the Treaty of the 25th of October, 1823, between the Sublime Porte and Sardinia: and I am not aware of the existence of any other Treaty upon the subject. Under this Treaty, “any differences and lawsuits arising between Sardinian subjects shall be heard and decided by their Ministers and Consuls;” but no authority is given by the Treaty to Sardinian Ministers and Consuls, to decide differences and lawsuits between the citizens and subjects of other Powers and Sardinian subjects. It may be that a subsequent Treaty exists conferring this authority; but if so, it is not to be found in the Department of State.

Neither does this Treaty confer upon a Sardinian Tribunal the jurisdiction to try and punish crimes committed by Sardinian subjects in Turkey. It merely provides that “if, however, Sardinian subjects should be guilty of any crime, they shall be sentenced, with the concurrence of their Minister or Consul, to such punishments and chastisements as they shall have deserved, and as, on similar occasions, are practised with respect to the other European Nations.”

If the Sardinian Government, independently of the Treaty, have authorized its Legation at Constantinople to hear and decide suits brought by a citizen of the United States against a Sardinian subject, the mode of proceeding must be regulated by the laws of Sardinia. In such a case, if an American citizen shall resort to this Tribunal, he must be governed by the rules of proceeding which the Power creating it has prescribed. Should the Plaintiff believe that injustice has been done him, by the inferior Tribunal, he ought to resort to the superior,—if the law has afforded him such a resort. If the United States were to establish such a Tribunal in Constantinople and to authorize foreigners to bring suits before it against our own citizens, with the right of appeal by either party to a superior Tribunal, it would be a strange proceeding for the foreigner, in case he should feel himself aggrieved, instead of prosecuting his appeal to such Tribunal, to resort directly to this Government for redress; and it is not difficult to imagine, what would be the answer of the Government to such an application.

But it is alleged that the “*Jeni Dunia*” was not under the protection and jurisdiction of the Turkish flag. It may then be asked, under what other national flag did she sail? It is not disputed that she bore the Turkish flag at her mast-head; and the charter party itself proves, that she was confined in making voyages and towing vessels to the interior waters of Turkey. It is difficult to suppose that a steam-boat limited to such objects, should be independent of Turkish jurisdiction.

There is no doubt but that Mr. Oscanyan has been very badly treated. He chartered the “*Jeni Dunia*” Steamer, for four months, from the first day of July, 1845, to the end of October following, at the rate of 15,000 piastres (about \$1200), payable monthly in advance. After making the first payment, and enjoying the use of the Steamer for one month, he was deprived of her possession, without his own consent, and, most probably, by improper means, soon after the commencement of the second month. The question, however, is not whether Mr. Oscanyan has been badly used,—whether he is not entitled to his damages for the violation of the charter party; but whether it is such a case as would justify the American Government in requiring that of Sardinia to instruct its Minister at Constantinople to take jurisdiction of his complaint, and to award to him damages against Mr. Berzolese, equivalent to the amount of the injury sustained. I confess, that upon the confused and contra-

dictory statements of the facts now before me, I doubt very much the propriety of such a course.

I fear that Mr. Oscanyan was badly advised, in rejecting (if he did reject) the proposition of Mr. Berzolese, to refer the question of damages to the Acting Chargé d'Affaires of the United States; promising, at the same time, to pay the amount awarded on the simple presentation of the bill. This was, however, as you observe, a question for Mr. Oscanyan to decide for himself; and his refusal to accept the proposition cannot interfere with his legal rights.

I have determined to send to Mr. Carr, our Minister at Constantinople, a copy of all the material papers in the case, including the note of Count Solar de la Marguerite to you, of the 28th October last, and of your despatch to me, of the 20th November; with instructions to inquire into the facts, and to make a report to me on the subject. Being on the spot where the transaction took place, Mr. Carr will enjoy advantages for this purpose not possessed by either you or myself.

In the mean time, I should be happy to receive from you any suggestions on the subject which you may think proper to make. It is my desire to know, if possible, that I am in the right, before I shall instruct you to make the demand on the Sardinian Government which you have proposed.

Your despatches, to No. 50, inclusive,—the last dated on the 20th of January, and a despatch dated the 20th ultimo, also numbered 50,—have been received.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. PAKENHAM.¹

DEPARTMENT OF STATE,

WASHINGTON, 28th April, 1847.

RIGHT HONBLE. RICHARD PAKENHAM,

&c., &c., &c.

SIR:

I have received the letter which, pursuant to instructions, you did me the honor to address to me on the 24th instant, with

¹ MSS. Department of State, Notes to Great Britain, VII. 158.

a copy of a despatch from the Governor General of British North America to Her Majesty's Secretary of State for the Colonial Department, expressing His Lordship's acknowledgments for the courtesy which he had experienced from our citizens during a late journey through the United States, on his way to Montreal; and at the same time tendering the thanks of Her Majesty's Government for the attentions shewn upon this occasion to Lord Elgin.

I have lost no time in submitting your communication to the President, by whom I am directed to express to you his satisfaction in learning that the attentions shewn to a distinguished officer of the British Government, on the occasion to which you refer, are such as were due to his high character, and to the friendly relations so happily subsisting between the two countries.

I avail myself of the occasion to offer you renewed assurances of my high consideration.

JAMES BUCHANAN.

TO MR. MASON.¹

DEPARTMENT OF STATE,
WASHINGTON, April 30th, 1847.

HON. JOHN Y. MASON,
(Secretary of the Navy.)

SIR:

I have the honor to communicate, for the information of the Navy Department, a translation of a decree of the Government of Peru, the original of which has been received from the Minister of that Republic here—granting a right of deposit in the public ware-houses of the Peruvian ports for articles destined for the use of the vessels of war of friendly or neutral nations.

I am &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 243.

TO MR. POLK.¹

(No. 14.)

DEPARTMENT OF STATE,

WASHINGTON 5th May, 1847.

WILLIAM H. POLK, ESQRE.,
&c., &c., &c.

SIR:

Your despatches to No. 8 inclusive, have been received. Your No. 8, dated 4th January, 1847, did not reach the Department until the 23rd ultimo.

Until a few days ago, my attention was not directed by the appropriate clerk to the inquiry contained in your despatch No. 6 of the 15th July last; nor did I until then ever know of its existence. I presume the cause of this neglect was my absence at Saratoga on the 5th September, when it reached the Department.

Your inquiry is, whether, under the Treaty of the first of December, 1845, an American vessel, having taken in part of her cargo, destined for the United States, at any foreign port not within the Kingdom of the Two Sicilies, may enter a port of that Kingdom for the purpose of completing her cargo, without being subject to a discriminating tonnage duty. This Treaty is one of direct reciprocity. It does not embrace the indirect or triangular carrying trade. According to its correct construction, vessels arriving directly from ports of the United States at Sicilian ports are alone exempted from discriminating tonnage duties. Vessels arriving indirectly in the ports of either country, from those of a third Power, are not embraced by the Treaty; but are left to the rules and regulations of the respective Governments, in regard to tonnage duties. In this particular, they stand on the same footing, as though the Treaty had never been concluded.

But it would surely be contrary to the interest of Sicilian navigation to exact discriminating tonnage duties from American vessels in the cases to which you have referred.

Under the 2nd Section of the Act of Congress of the 31st May, 1830, "all acts and parts of Acts imposing duties upon the tonnage of the ships and vessels of any foreign nation, so far as the same relate to the imposition of such duties, shall be repealed: *Provided, that the President of the United States shall be satisfied that the discriminating or countervailing duties of such*

¹ MSS. Department of State, Instructions, Two Sicilies, XIV. 43.

foreign nation, so far as they operate to the disadvantage of the United States, have been abolished."

Under this law, all tonnage duties whatever have been abolished in the United States, except in the cases embraced by the proviso. Should the Sicilian Government levy discriminating tonnage duties on vessels of the United States arriving in their ports from those of a third Power, a similar rule will be applied to Sicilian vessels, arriving under like circumstances, in the ports of the United States. Instead of being freed altogether from tonnage duties, these vessels will then, under our laws, be obliged to pay a tonnage duty of 50 cents per ton, and, also, a duty of 50 cents per ton for "light money," amounting in the aggregate to \$1.00 per ton.

I have communicated the preceding part of this despatch to the Treasury Department, which confirms the opinions I have expressed.

It is so manifestly the interest of the Two Sicilies not to levy discriminating tonnage duties on vessels of the United States arriving in their ports from other foreign ports in the Mediterranean, merely for the purpose of completing their cargoes with Sicilian productions, that it is probable they will not resort to so impolitic a measure. As I have heard nothing from our Consul at Palermo, and nothing further from yourself on the subject, in your two subsequent despatches, I have reason to hope that they have abandoned, if they ever entertained, such an intention. Should the fact be otherwise, you will immediately communicate this information to this Department.

Your despatch No. 7, of the 15th of October last, relative to the claim of Messrs: Borie & Company for indemnity from the Sicilian Government, never reached the Department until the 23rd of April. So great a delay is wholly unaccountable. If I correctly understand the facts of the case in question, the claim of these gentlemen presents a fair subject for the interposition of this Government.

The Sicilian Government, to encourage their own navigation, decreed, "that any Neapolitan or Sicilian vessel which shall export from the Kingdom a cargo of national produce for Eastern or Western America, and shall import into the country a cargo of produce, shall obtain a reduction of 30 per cent. on the amount of the duties;" and they reserved to themselves the right to abolish this privilege at any time after six months' preventive notice.

This decree was an invitation to all American merchants to ship their goods destined for the Two Sicilies, on board of Sicilian vessels which had brought "a cargo of national produce" to the United States, in preference to American vessels; and both as a consideration and an inducement for doing this, the faith of His Sicilian Majesty was pledged that these goods should be admitted into Sicilian ports, "at a reduction of 30 per cent. on the amount of the duties on said cargo."

The case of Messrs: Borie & Company is not that of a private contract between a Foreign Government and an American citizen; in which the citizen must trust to the faith of the other party for its execution, and in the event of failure has no right, as a general rule, to demand the interposition of his own Government. It resembles much more nearly the violation of a public Treaty, granting to American citizens a reduction of 30 per cent. of the Sicilian duties, provided they would ship their merchandise on board of Sicilian vessels which had brought a cargo of national produce to the United States. It was a public law to this effect, enacted by the authority of the only Legislative power in the Kingdom.

Now, if it were possible, let us suppose that Congress should pass a law, enacting that the cargoes shipped in a foreign country on board of American vessels which had carried American productions abroad, should be relieved, when imported into the United States, of thirty per cent. of the amount of duties under our existing Tariff, until six months' notice of the repeal of this law should be given. A British or French subject, upon the faith of this enactment, makes such a shipment; but on the arrival of the vessel in the United States, he finds that Congress, from some high motive of public policy, has violated the national faith and suddenly repealed this law, without giving the notice required; would he not, under such circumstances, be clearly entitled to indemnity? Would Congress refuse for a moment to grant it to him? And if they did, would not the Government of Great Britain or France have a right to interpose and demand redress for such an outrage on national faith? It appears to me that the claim of Messrs: Borie & Company upon the Sicilian Government presents a case parallel to the one I have supposed.

It is no sufficient reason for this Government not to interpose for the protection of one of its citizens, that Great Britain may have submitted in silence to a similar imposition practised on British subjects. If she should persist in doing this, it will

be a new leaf in her history. Neapolitan subjects, of course, have no alternative but submission. For these reasons, which I might extend to a much greater length, I regret to differ from you in opinion.

You will, then, carefully examine into all the facts of the case of Messrs: Borie & Company; and if you should find them to be in accordance with their statement, now in your possession, you will firmly, but respectfully, in the name of your Government, ask of the Sicilian Government, that Messrs: Borie & Company be indemnified for the losses which they have sustained in the premises.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. TENELLI.¹

DEPT. OF STATE, 5 May, 1847.

L. W. TENELLI ESQR.

U. S. Consul, Oporto.

SIR:

Your despatch No. 2, referring to the blockade of the Port of Oporto, "since the 20th of Octr., by the Government of Lisbon," has been received. In reply, I have to state, that the views you express on the subject generally, & especially in regard to the obligation of a Sovereign "to keep his Ports open to the vessels of the nations by which he is treated with perfect reciprocity," under circumstances similar to those stated by you to exist in Portugal at the date of your letter, are totally at variance with a just interpretation of international law, and cannot be approved by this Department.

In a despatch under date the 19th of March last, addressed to you by the Chargé d'affaires of the U. S. at Lisbon, the principles of public law applicable to the case are justly expounded, & clearly expressed. The right of a Sovereign to exclude by blockade the commerce of all nations from a Port the inhabitants of which are in a state of revolution, cannot be questioned. The question as to validity of blockade depends upon

¹ MSS. Department of State, Despatches to Consuls, X. 429.

the ability to enforce it; & Mr. Rencher very justly remarks, that "a mere proclamation declaring a City in a state of blockade is no blockade, unless there be stationed there a sufficient naval force," to maintain it. With equal justice, at the date of his letter, he adds, "I understand there is now stationed off the bar of Oporto a competent naval force, & if so, in my opinion, the blockade is a lawful one; and if any Vessel American or otherwise attempts to run the blockade, in defiance of this naval force, & is taken, her owners & underwriters will have no remedy or claim against this government." These principles are approved by this Department; & I have to request that you will regulate your official action in conformity therewith.

I am Sir &c.

JAMES BUCHANAN.

TO MR. DONELSON.¹

(No. 9.)

DEPARTMENT OF STATE,

WASHINGTON, 13th May, 1847.

ANDREW J. DONELSON, ESQRE.,
&c., &c., Berlin.

SIR:

I herewith transmit to you a copy of the Hanoverian Treaty, with the accompanying correspondence as communicated to the Senate; also, a copy of the instructions on which it was founded: and a copy of a despatch of this date to Mr. Ellsworth, our Chargé d'Affaires at Stockholm.

These documents will make you acquainted with the views of the President in regard to future commercial Treaties of indirect reciprocity. These Treaties are founded upon the policy announced by Congress in the Act of 24th May, 1828, "in addition to an Act entitled 'An Act concerning discriminating duties of Tonnage and Import,' and to equalize the duties on Prussian vessels and their cargoes."

A perfect reciprocity in the direct trade between two countries is not liable to serious objection. Not so the indirect or triangular trade. Whether this ought to be conceded by the United States to any particular Power, depends upon many cir-

¹ MSS. Department of State, Instructions, Prussia, XIV. 112.

cumstances, the character of which is touched upon in my despatch to Mr. Ellsworth. Certain it is that there exists at present in the United States much objection to such Treaties. Even our late Treaty with Hanover, advantageous as it is to our country, encountered serious opposition in the Senate; which prevented its ratification until the succeeding Session after it was communicated to that Body by the President.

This Treaty is, however, the commencement of a new era in our commercial policy. Should a Treaty less favorable to our Country be concluded with the Zoll-verein, it would doubtless encounter strong opposition in the Senate; and if it were much less favorable, it would most probably be rejected.

Whilst the duty on Tobacco in the Zoll-verein is \$3.33/100 per hundred pounds, the Hanoverian duty is only 70 cents per hundred. This, as you are aware, is a most important article for the United States. If you could aid, by any means, in having the Zoll-verein duty reduced to the Hanoverian standard, you would render your country an essential service. An article might then be inserted in the proposed Treaty with the Zoll-verein, similar to the 11th Article of our Treaty with Hanover.

The highest policy and the strongest desire of Prussia are now to embrace all the German States in the Zoll-verein League, and place herself at their head. This she cannot expect to accomplish under her present restrictive system. In order to induce Hanover, Oldenburg, the two Mecklenburgs, Bremen, and Hamburg to join the League, the Zoll-verein must reduce their duties. An assimilation of these duties with those of the last mentioned States would open and encourage a trade with the United States which could not fail to confer mutual benefits and advantages upon all concerned. It would secure a fine field for the extension of Prussian navigation; which now seems to be a cherished interest of that Kingdom.

Why should not the States of the Zoll-verein become parties to the Hanoverian Treaty in the manner prescribed by the Twelfth Article; or conclude a Treaty with the United States of the same character?

Your despatches Nos. 19, 20, 21,—and Mr. Fay's letter of the 16th February, transmitting accounts and vouchers,—have been received.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. ELLSWORTH.¹

(No. 12.)

DEPARTMENT OF STATE,

WASHINGTON, 13th May, 1847.

HENRY W. ELLSWORTH, ESQRE.,
&c., &c., Stockholm.

SIR:

Your despatches Nos. 22, 23, 24, 25, and 26, have been received; the first on the 22nd February, and the four latter on the 2nd April. They contain useful and important information on the subject of the Swedish Tariff.

I entirely concur with you in opinion as to the injustice and impolicy of levying extravagant duties on articles imported into Sweden by means of an assumed valuation twice or thrice greater than the actual cost. This, as you observe, bears with peculiar hardship upon several of the most important productions of the United States. Your number 25 places this subject in a clear and striking light, in regard to Tobacco. From this it appears, that an invoice of tobacco Stems, from Manilla, paid a duty of more than 150 per cent. on the actual cost of the article, and all the charges upon it, when delivered in Sweden. Our coarser cotton fabrics, which we can alone profitably export, are either absolutely prohibited or are subject to a duty amounting to prohibition. I need not enumerate other articles; because I perceive you are perfectly acquainted with the subject.

It is satisfactory to learn that the King has adopted more liberal views of political economy, and is opposed to the existing Tariff. It is to be hoped that, under his enlightened influence, the next Diet will correct the errors into which the last has fallen.

You cannot employ yourself more usefully than by assisting to enlighten the public opinion of Sweden on this subject; but, in your efforts, you ought not to forget that each independent Nation, unless self-prohibited by Treaty, has a right to regulate its scale of duties on foreign imports, according to its own discretion.—This consideration will inculcate prudence on your part, and will prevent the advocates of restriction from raising the cry of foreign interference, to prejudice a fair and reasonable adjustment of the Swedish Tariff.

But there is one view of this question which you may present

¹ MSS. Department of State, Instructions, Sweden, XIV. 32.

in conversation with the appropriate Swedish Authorities. I should, ere this, have done so myself to the Swedish Chargé d'Affaires in this country; but he resides at New York, (I presume with the permission of his Government), and I do not, therefore, enjoy the opportunity of communicating with him in free and friendly personal intercourse.

Our Commercial Treaty of the 4th July, 1827, with Sweden and Norway, is based upon the most liberal principles towards these powers. It opens to their navigation not only the direct trade between these Kingdoms and the United States, but it enables their vessels to go all over the world, and bring the productions of every clime to this country, upon the same terms with American vessels. But it may be said that similar advantages are granted to vessels of the United States in the Ports of Sweden and Norway. Whilst this cannot be denied, it is yet manifest that such a concession to our vessels is far, very far, from being a fair equivalent for the privileges which Swedish and Norwegian vessels enjoy in our ports. The truth is, that, so far as regards the indirect carrying trade, the reciprocity of the present Treaty exists not in fact, but merely in name.

The United States now extend from the Atlantic to the Pacific Ocean, throughout the temperate latitudes. We number at least twenty millions of industrious and prosperous people, able and willing to pay for foreign commodities. The vessels of Sweden enjoy the privilege, under the Treaty, of transporting from all other foreign countries to the United States every article required for the consumption of our population, upon the same terms with our own vessels.

Now, what is the supposed equivalent? Sweden and Norway are but poor countries, in a high and severe Northern latitude. Their united population does not exceed four-and-a-half millions; and they consume comparatively but a small amount of foreign productions. American vessels may, it is true, under the Treaty, transport from third countries, foreign productions for the consumption of these two Kingdoms upon the same terms with their own vessels: and this is the compensation which we receive for all the superior advantages which we confer!

To make this inequality still more unequal, Sweden and Norway build, man, and sail vessels at a cheaper rate, perhaps, than any other country.

The consequence of all these advantages has been to give to Swedish navigation a great extension, at the expense of that of the United States.—And this, too, whilst the absurd policy of Sweden excludes from her ports, by enormous duties or indirect prohibitions, the important agricultural and manufacturing productions of this country.—Statistical Tables are in the course of preparation at the Treasury Department, which will illustrate and enforce these views. When completed, they shall be forwarded to you; and you may expect them by the next steamer.

It may be easily foreseen, that such a state of things cannot long continue to exist. We have the remedy always within our own power.—The Treaty may be abrogated at any time, after a year's notice, by either party.

The truth is, that, whilst no nation ought to complain of a perfect reciprocity, so far as relates to the direct carrying trade between itself and any other nation, the case is far different with regard to the indirect or triangular trade. Public opinion in this country is, therefore, fast taking a direction against the concession, to any Power, of the indirect trade with the United States upon terms of equality with our own vessels: and the effects produced by our Treaty with Sweden and Norway are always presented as the strongest arguments to prove the impolicy of such Treaties.

Whilst the President has arrived at no positive conclusion respecting the abrogation of any of our existing Treaties of indirect reciprocity, it is certain that he will not authorize the conclusion of any new Treaties of this character, without equivalents to the United States to compensate, in some degree, for the superior advantages which we may grant over those which we receive. The late Treaty with Hanover, (of which I transmit you a copy, with the accompanying correspondence sent to the Senate), is the commencement of a new era in our policy in this particular. It will sufficiently explain itself, without any observations on my part. Under its provisions, we have obtained fair equivalents for the advantages which we have conferred.

Such are the suggestions which you may discreetly make in conversation with the Swedish Authorities. They may have a favorable effect in reducing the rate of duties on American productions. Unless further instructed, you will not reduce them to writing.

With the nations on this Continent, we either have already concluded, or are always willing to conclude, Treaties of indirect reciprocity; but the reason is manifest. They have not many advantages for ship-building, and but few of their vessels engage in distant voyages. The privilege, therefore, granted to our vessels, of carrying to their ports, from the ports of third Powers, the productions of all countries, upon the same terms with their own vessels, is deemed of itself a sufficient equivalent for the benefits which we bestow. The case, however, is far different in regard to the Northern commercial nations of Europe.

With Great Britain and France we would, also, be willing to conclude Treaties of indirect reciprocity; because, from their population and wealth, our navigation would derive advantages equal to those we should concede to their vessels. These Powers, however, dreading our competition, have always refused to enter into such Treaties.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. GOUNDIE.¹

DEPT. OF STATE,

GEO. H. GOUNDIE ESQRE.

17th May, 1847.

U. S. Consul, Basle.

SIR:

Your despatches numbered 23 to 27 have been recd.; & I have to thank you for many interesting details of information which they contain.

Referring to your No. 24, in which you "solicit information respecting the children of American citizens born abroad," I have to state, that in the opinion of this Dept., children of American citizens born abroad are citizens of the United States.

I am Sir &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Despatches to Consuls, X. 430.

TO MR. WALKER.¹

DEPARTMENT OF STATE,

WASHINGTON, May 17, 1847.

SIR: The British Government, through Mr. Pakenham, have communicated information to this Department that the Collector of the Customs at Key West had given notice that on and after the 1st of December, 1846, the act of February 28, 1803, "to prevent the importation of certain persons into certain states where, by the laws thereof, their admission is prohibited," would be enforced in his district.

I would thank you to ascertain from the Collector what construction he has given to this act of Congress; and what description of vessels he intends to seize under its provisions. The late Chief Justice Marshall in the case of the Brig Wilson (1st Brockenbrough's C. C. R. p. 423) has decided that the penal provisions of this act do not apply to a vessel which has brought into port colored seamen employed as part of her crew.

I am, &c.,

JAMES BUCHANAN.

HON. ROBERT J. WALKER,
(Secretary of the Treasury.)

TO MR. PAKENHAM.²

DEPARTMENT OF STATE,

WASHINGTON, 18th May, 1847.

THE RIGHT HONBLE. RICHARD PAKENHAM,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 17th instant, enclosing, for the information of the Government of the United States, a copy of the regulations established in the Province of Canada, by an order in Council, issued on the 8th of this month, permitting vessels of the United States to pass through the Richelieu and St. Lawrence rivers, between

¹ S. Ex. Doc. 45, 32 Cong. 2 Sess. 11; MS. Domestic Letters, XXXVI. 252.² MSS. Department of State, Notes to Great Britain, VII. 161.

Lake Champlain and Fort Covington, officially communicated to you by the Governor General of British North America.

Allow me to renew to you, Sir, the assurance of my high consideration.

JAMES BUCHANAN.

FROM MR. BANCROFT.¹

90 EATON SQUARE, LONDON, May 18, 1847.

MY DEAR MR. BUCHANAN,

The little charge in the contingent account for official cards was made without my direction by the agent, who assured me afterwards that it had always been made time out of mind. But as you differ from me in your view of it & do not consider it in the light of stationery or passports, it is too small a matter to write more about. So agreeably to your suggestion in your very acceptable letter to my wife, be so good as to return me by the next steamer *my despatch without number of Feb. 26*, & I will regard yours of April 29 as a private memorandum made for my personal guidance; & not to be put on your records at Washington or my files.

A few nights ago I met at Sir Robert Peel's one of your old colleagues at St. Petersburg. I mean Lord Haytesbury. He himself began speaking of you; & went on at considerable length to tell me of your career there, & of his regard for you. He said every thing about you which it was pleasant to hear; & more justly & discriminatingly & with more hearty expressions of good will, than I have heard from any one except Baron Brunnow. I liked it the more, as Lord Haytesbury is a quiet person, not given to many words; and I saw that he spoke voluntarily & sincerely.

I met the same evening Sir Harry Smith, the General whom all London is just now admiring. He told me, he was at Washington when it was taken, & was sent home with the news, on which occasion he obtained his promotion to a majority. He expressed in the very strongest manner his own & the army's abhorrence of the destruction of the capitol & President's House; saying rightly, that arsenals & military stores were fit objects for destruction in war, but reprobating the conduct of those who directed the devastation of the public buildings at Washington, in the most energetic terms. I liked also to hear him talk about war. He spoke of it as his profession; but like Jackson, & I believe like almost every great General, he deprecated it in as strong language as could possibly be used.

The tone of feeling towards the administration & towards America has undergone an exceedingly great change during the few months I have been here. I would not give you the idea, that the Government here or the people like to see us increase in territory or commerce in the Pacific. Far otherwise. But already they see the inevitable necessity which appropriates all North America to the Anglo Saxon Race. They acknowledge our superiority, & the last news from America has compelled them to acknowledge our

¹ Buchanan Papers, Historical Society of Pennsylvania.

entire success. "Have you any news from Mexico?" said one of my colleagues to Lord Palmerston. "Nothing," said he, "but what you find in the papers," & alluding to Atocha's pretended offer, which he seems to have thought a real & authorized one, he added, "They are going to take two thirds of Mexico. They might as well take the whole," or "Why don't they take the whole?" Lord John Russell, who is a different sort of man from Lord Palmerston, of fewer words but of quite as sincere a spirit, & seeing clearly the necessity of friendship with us, has also been told, (not directly by me, I have most cautiously avoided introducing the subject,) that the Americans must advance their boundary towards Mexico, & of necessity occupy & appropriate the unsettled parts of the country, as well as ultimately revolutionize the rest; and when he is told this, he makes no objection, regarding the results in part as inevitable, & in part depending on the policy of the United States, of which he is wholly indisposed to undertake the control.

Till the last steamer the English had flattered themselves, that San Juan would hold out, till our armies got the fever, which was to drive them away. Our successes astonished them. The ministers, now for the first time, spoke to me of our brilliant victories, of the superiority of the Anglo Saxon race; & the hope that we might now make peace. Every thing seems to promise towards us a better tone of feeling. Even on tobacco Lord Palmerston has promised me to talk with the Chancellor & the Treasury, & if he can get their assent, will write me a letter in favor of a very great reduction of the duty on tobacco. The reduction would at once be made but for the poverty & consequent timidity of the exchequer.

But domestic matters overwhelm the ministry. The affairs of this country & Ireland are getting worse & worse. The ministry exist by sufferance, because none others wish the terrible responsibility of settling the Irish questions. They are as far from settlement as ever. Food has reached famine prices; & every branch of the laboring classes is in distress throughout England.

Write to me often. Keep me acquainted with the progress of negotiations with Mexico. Do not fail to let me hear from you.

Pray remember my request for *Baron Cetto* & send an answer soon. It is but courteous for a brother diplomatist to give him an answer.

The administration is the most successful of any. If we are to fall, let us to the last stand by one another; & show that friendships founded on principle cannot be shaken.

Faithfully yours

GEORGE BANCROFT.

TO MR. BANCROFT.¹

(No. 13.)

DEPARTMENT OF STATE,

WASHINGTON, 19th May, 1847.

GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

I transmit, herewith, a letter directed to you by Israel D. Andrews, Esqre., Consul of the United States at St. John's, New Brunswick, of which he has furnished me a copy. From this, it appears that the Collector of the Customs there intends to charge a duty of four shillings sterling per ton on English coal exported from that port to the United States in American vessels; whilst no export duty is chargeable on such coal when exported from thence to the United States in British vessels.

By the act of Parliament of 8 and 9 Victoria, Cap. 90, (vide table B,) an export duty of four shillings per ton is charged on "coals, culm, or cinders in a foreign ship," when exported from the United Kingdom to foreign countries.

Under our commercial convention with Great Britain, of the 3d July, 1815, American vessels clearing from British ports to those of the United States, are placed upon the same footing as British vessels: and are, therefore, exempt from an export duty on coal. In this respect, there is a perfect equality between the vessels of the two nations.

But the 98th section of the act of 8 and 9 Victoria, Cap. 93, enacts, "That it shall not be lawful for any person to reëxport from any of Her Majesty's possessions abroad, to any foreign place, in any foreign ship, any coals, the produce of the United Kingdom, except upon payment of the duty to which such coals would be liable upon exportation from the United Kingdom to such foreign place," &c., &c.

It is doubtful whether this provision, when construed in connection with the commercial convention, would justify the imposition of the proposed export duty; but, be this as it may, I entirely concur in opinion with Mr. Andrews, that the imposition of such a duty is a violation of the spirit of our commercial convention with Great Britain, and is calculated to afford undue advantages to British navigation.

¹ MSS. Department of State, Instructions, Great Britain, XV. 344.

You will bring the subject to the knowledge of the British Government in the manner best calculated to obtain redress.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. DURANT.¹

DEPARTMENT OF STATE,

WASHINGTON, May 20th 1847.

THOMAS J. DURANT, ESQR.

(U. S. District Attorney, New Orleans.)

SIR:

It was with feelings of deep mortification I learned from your letter of the 28th ultimo, that Alexandre Legendre had made his escape from the parish jail of New Orleans. If the government of the United States cannot carry into effect their Treaties of Extradition, then it would be better at once to abrogate them by giving the notice required for this purpose.

In the case of Legendre, after the French Government had performed its whole duty, the President of the United States, on the 23d March last, issued his warrant to the Marshal of Louisiana requiring him to deliver Legendre to the French Consul at New Orleans.

I would thank you to inform me under what law of Louisiana a State Judge is authorised to issue a Habeas Corpus for the purpose of arresting the execution of such an order of extradition issued by the President, after the hearing and final decision of the question before the District Judge of the United States.

I have yet received no report from the Marshal, stating the reasons why he had not executed the order of the President and the steps which he has taken to recapture the fugitive. I shall expect from him a full and detailed report upon this subject, such an one as may be communicated to the French Government. Our national faith must not be called in question, if this can possibly be avoided. Should the Marshal not have transmitted his report before this reaches you, I would thank you to inform him that I feel much disappointed at not having

¹ MSS. Department of State, 36 Domestic Letters, 254.

already received it. I hope it may be of such a character as to exonerate him, as well as the Government whose officer he is, from all censure in the premises.

Your conduct throughout seems worthy of approbation. The agreement of the French Consul to postpone the hearing of the case without your consent was an unauthorised proceeding on his part. Legendre was then in custody of the Marshal under the President's order of extradition, and the duty had devolved exclusively upon this Government to see that it was faithfully executed. If it should appear that the escape was occasioned in consequence of this act of the French Consul, it will, at least in some degree, transfer the responsibility to him.

Your letter of the 11th instant has been received.

I am, &c.

JAMES BUCHANAN.

TO MR. BANCROFT.¹

No. 14.

DEPARTMENT OF STATE,

WASHINGTON, 21st May, 1847.

GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

You will receive herewith the commissions of Noble Towner, and Christopher Hempstead, appointed Consuls of the United States respectively for the Island of Barbadoes and the port of Belize, in Honduras. I have to request that you will make application in the proper quarter for the corresponding exequaturs, which, when obtained, you will, together with their commissions, forward to these gentlemen at their posts. Mr. Towner expects soon to start for his Consulate, and Mr. Hempstead, it is believed, is already at Belize.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Great Britain, XV. 345. Mr. Hempstead was notified of his appointment as "Consul of the United States for the Port of Belize, Honduras," and was advised, March 19, 1847, that his commission as such would be sent to the legation of the United States at London "with instructions to apply to the British Government for the usual Exequatur." (Despatches to Consuls, XII. 308.) See Mr. Buchanan to Mr. Hempstead, March 7, 1848, infra.

TO MR. MARCY.¹

DEPARTMENT OF STATE,

WASHINGTON, May 22d 1847.

SIR: I have the honor of enclosing to you four letters received at this Department, the first from the late Governor Bent dated the 26th December last, and three others from Donaciano Vigil, formerly Secretary but now the acting Governor of New Mexico, dated respectively on the 26th February and on the 23d and 26th March.

As the Government of New Mexico is military, these letters naturally refer themselves to your Department. They contain information and suggestions well worthy of your attention.

Mr. Vigil appears to be anxious that a successor should be appointed to Governor Bent without delay, and strongly recommends for that office Mr. Ceran St. Vrain of Missouri.

I am &c.

HON. W. L. MARCY,
(Secretary of War.)

JAMES BUCHANAN.

TO MR. AUBOYNEAU.²

DEPARTMENT OF STATE,

WASHINGTON, May 24th, 1847.

F. M. AUBOYNEAU ESQRE.
U. S. C. La Rochelle.

SIR,

I have received your despatch No. 12, referring to a letter addressed to you by the Colonel of the 79th Regiment of Infantry, now in garrison at La Rochelle, in which he requests you to claim of this Government a Soldier of his Regiment, Blaise Stuber, who had deserted & probably taken passage on board the American Barque "Inca" of Baltimore, which Vessel cleared from the port of La Rochelle for New York, on the 27th of March.

By the Treaty with France of June 24th, 1822, provision is made, whereby deserters from her public or private Vessels,

¹ H. Ex. Doc. 70, 30 Cong. 1 Sess. 16-17; 36 Domestic Letters, 256.

² MSS. Department of State, Despatches to Consuls, XII. 322.

while in any port of the United States, may be delivered up, in the mode & after the proceedings therein specified. The provisions of the Treaty of Novr. 9th, 1843, are exclusively applicable to fugitives from justice of either Country, charged with crimes specially enumerated therein.

In the absence of conventional stipulations between the two Countries for the reciprocal surrender of Military deserters, the Executive of the United States is without authority to accede to the request preferred by you, having in view the apprehension and delivery to the French Government of Blaise Stuber, an absconding French soldier.

I am &c.

JAMES BUCHANAN.

TO MR. EVERETT.¹

No. 11.

DEPARTMENT OF STATE,

WASHINGTON, 25th May, 1847.

ALEXANDER H. EVERETT, Esq.

&c. &c. &c.

SIR:

Your despatches to No. 25, inclusive, dated the 12th of February last, have been duly received and submitted to the President.

With reference to your letter to the Department of the 8th of January, 1847, (No. 20,) I regret to state that the bill reported at the last session of Congress, containing provisions for the trial and punishment of crimes committed by American citizens in China, was not considered for the want of time and the pressure of other important business. It is to be hoped that some efficient measure will be adopted for this purpose, before the termination of the next session.

Your suggestions respecting the propriety of placing one or more ships of war in the China seas, for the protection of our citizens and commerce, have received an attentive consideration. The President is convinced of the expediency of the proposed measure, and your recommendation will be carried into effect with the least practicable delay. The present scarcity of seamen prevents the Secretary of the Navy from despatching

¹ MSS. Department of State, Instructions, China, I. 44.

a vessel on this service immediately; but so soon as a crew can be obtained, a United States frigate will be sent out and placed on the China station. A steamer cannot be spared at the present moment.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. RUSH.¹

(No. 3.)

DEPARTMENT OF STATE,

WASHINGTON, 25th May, 1847.

RICHARD RUSH, ESQRE.,

&c., &c., &c. Philadelphia, Pa.

SIR:

Whilst you were in Washington, I accidentally omitted to call your attention to the claim of Louis Barbat, a naturalized citizen of the United States, made by Mr. King in his behalf against the French Government, for the actual expenses to which he had been subjected, in consequence of the sentence of a French Military Tribunal condemning him as a refractory conscript. For a full understanding of the merits of this case, I beg leave to refer you to a despatch (No. 3,) with the annexed documents, addressed to me on the 30th October last, by Mr. Martin, Acting Chargé d'Affaires of the United States at Paris.

The question involved, as you will perceive, is of a delicate and important character. The rights of a naturalized American citizen have been violated in the person of Mr. Barbat, by the sentence of a French Military Tribunal; and Mr. King has not asked for him an indemnity for the injury sustained, but merely for the actual expenses incurred. You will urge this claim upon the attention of the French Government at the time, and in the manner, you may deem best to obtain redress.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, France, XV. 52.

TO SEÑOR CALDERON DE LA BARCA.¹

DEPARTMENT OF STATE,

WASHINGTON, 26th May, 1847.

DON A. CALDERON DE LA BARCA,
&c., &c., &c.

SIR:

The Undersigned, Secretary of State of the United States, has to honor to acknowledge the receipt of the note under date of yesterday, from Mr. Calderon de la Barca, Envoy Extraordinary and Minister Plenipotentiary of Her Catholic Majesty the Queen of Spain, requesting the appointment of a time for the delivery of drafts for \$28,500, on account of the interest of the twelve millions of reals vellon,—referred to in the Convention of 1834.

The Undersigned has the honor, in reply, to inform Mr. Calderon, that he will be happy to receive him at the Department of State, for this purpose, to-morrow, the 27th instant, at 12 o'clock.

The Undersigned avails himself of this opportunity to renew to Mr. Calderon the assurances of his distinguished consideration.

JAMES BUCHANAN.

TO MR. PARKS.²

DEPARTMENT OF STATE,

WASHINGTON, May 26, 1847.

GORHAM PARKS, Esq.

U. S. Consul, Rio de Janeiro.

SIR:

Your despatch of the 14th November last (No. 30,) was received at this Department on the 14th January; but was not brought to my notice until a few days ago. I regret that it has so long remained without an answer.

The main question presented by you for decision is, whether in case of the sale and transfer of a registered American vessel in a foreign port to an American Citizen entitled to make the

¹ MSS. Department of State, Notes to Spanish Legation, VI. 154.² MSS. Department of State, Instruction to Consuls, XIII. 1.

purchase, all the formalities required by law to render the sale valid having been observed, she is bound to return to the United States for the purpose of obtaining a new Register before she can undertake any other voyage.

This question has been submitted to the President; and he is clearly of opinion, that a vessel under such circumstances is not obliged to return to the United States for a new Register.

By the 14th section of the Act of December 31st, 1792, concerning the registering and "recording of ships or vessels," it is enacted that when a registered ship or vessel "shall in whole or in part be sold or transferred to a citizen or citizens of the United States," &c. &c. "in every such case the said ship or vessel shall be registered anew," &c. "and her former certificate of Registry shall be delivered up to the Collector to whom application for such new Registry shall be made, at the time that the same shall be made, to be by him transmitted to the Register of the Treasury, who shall cause the same to be cancelled."

In order to procure a new Registry, it is necessary, under the same section, that the sale or transfer shall be made by "some instrument of writing, in the nature of a Bill of Sale, which shall recite at length the said certificate."

This act was passed in the infancy of the Federal Government, and does not seem to have contemplated the sale of American vessels beyond the limits of the United States. When such sales were made, in a foreign country, it would therefore have been a reasonable construction of its provisions to require the vessel to return to the United States for a new Registry with the least practicable delay.

Between the years 1792 & 1803, however, there had been a great extension of our foreign trade. In consequence of the wars between the powers of Europe arising out of the French Revolution, we had become, in a considerable degree, the carriers for the whole world. Congress, under these circumstances, deemed it necessary to provide expressly for the sale of American vessels to American citizens, in all foreign Countries. This they have done by the 3d section of the act of 2d March, 1803, which declares "that when any ship or vessel which has been, or which shall be, registered pursuant to any law of the United States, shall, whilst such ship or vessel is without the limits of the United States, be sold or transferred, in whole or in part, to a citizen or citizens of the United States, such ship or vessel, *on her first arrival in the United States thereafter*, shall be en-

titled to all the privileges and benefits of a ship or vessel of the United States," &c. &c.

Congress had the whole subject before them at the time of the passage of this act. Had they intended that the Vessel should return home immediately for a Registry, they would undoubtedly have expressed this intention. So far from this being the case, their language is indefinite in point of time. It does not require the vessel to return immediately after the sale; but at whatever time she may return, it recognises her right to all the privileges and benefits of an American Vessel.

A different construction of this act would prove extremely injurious to American citizens in prosecuting our carrying trade between foreign nations,—an object always much cherished by the policy of the United States, and would be detrimental to our ship-building interest. An American citizen could not then purchase an American Vessel in China or at the Sandwich Islands to prosecute a lawful voyage from thence to any foreign country; and an American ship-builder could not send his Vessels abroad with any hope of selling them to American citizens beyond the limits of the United States. Besides, such a construction of the act would be contrary to the settled practice under it, as I am informed at the Treasury Department.

It never could have been intended to confer upon Consuls of the United States the power, at their discretion, to decide whether an American citizen who had lawfully purchased a vessel in a foreign Country, should or should not be compelled to send her immediately to the United States. The citizen by the purchase has acquired rights which cannot be divested by any officer of the Government. The Bill of Sale, properly authenticated and reciting at length the original certificate of Registry, becomes the substitute on board the Vessel for that certificate, until her "first arrival in the United States thereafter."

It may have been proper for Congress to prescribe a limited time within which this first arrival should take place; but not having imposed any such restriction, it is neither for the Department, nor for American Consuls, to supply this supposed defect in the law, and to decide that this arrival shall take place as soon as the vessel can make a direct voyage to the United States, from the port at which she was sold.

As this question, from its nature, partly belongs to the Treasury Department, I have consulted the head of that Depart-

ment on the subject, who concurs with me in all the opinions expressed in this Despatch.

Your despatches to No. 35, inclusive, No. 32 excepted, have been received. I will thank you to transmit a duplicate of No. 32, with your next despatch.

I am, Sir, &c.

JAMES BUCHANAN.

P. S. I enclose herewith a copy of my letter, dated 28th inst., to the Secretary of the Treasury, referring this despatch for his consideration, and also a copy of his reply, in which he states, that it contains the construction given by the Treasury Department to the Act of 2d March, 1803, and is in pursuance of the practice under it.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,

WASHINGTON, May 27, 1847.

BENJAMIN F. BUTLER, Esq.

(U. S. District Attorney, New York.)

SIR:

I send you enclosed a copy of a note just received from Mr. Crampton, Her Britannic Majesty's Acting Chargé d'Affaires near this Government, applying to this Department for particular information relative to the amount and disposition of the proceeds of the American vessel "Catherine" condemned and sold at New York for having been engaged in the slave trade. I have to request that you will have the goodness to furnish me with the desired information, so far as you may be able to obtain it from the court records, or such other authentic sources as may be within your reach—in order that it may be communicated to him.

I am, Sir, respectfully, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 259.

TO MR. CARR.¹

No. 7.

DEPARTMENT OF STATE,

WASHINGTON, 28th May, 1847.

THOMAS N. CARR, ESQRE.,

United States Consul, Tangier.

SIR:—

Your despatches to No. 11, inclusive, have been received at this Department.

No great apprehensions have ever been entertained by this Government in regard to Mexican Letters of Marque, either in the Mediterranean or elsewhere. The advantage, however, of having a vessel of war on that station, which you have very properly suggested on several occasions, had not escaped attention; and you will have learned, before this can reach you, that the Marion Sloop of war had already been ordered to the Mediterranean.

The President has not yet received an answer from the Emperor to his letter dated 20th March, 1846, which was transmitted through the French Legation here. He cannot account for this great delay. He trusts that, when it arrives, it may prove to be in accordance with your wishes.

The President postponed his answer to the Emperor in the hope that the question of your recall had been settled by your reception; although he could not fail to observe that, on that occasion, reference was repeatedly made by the Bashaw of Tangier to the letter which was expected from the President. He could, however, delay this answer no longer, after the Department had received, through the French Legation in this City, a letter on the subject, from the Sultan's Secretary, dated on the 19th December, 1845, three months after your reception.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Barbary States, XIV. 58.

TO MR. RUSH.¹

(No. 4.)

DEPARTMENT OF STATE,

WASHINGTON, 28th May, 1847.

RICHARD RUSH, ESQRE.,
&c., &c., &c.

SIR:

Bills of exchange have been received at this Department from the Envoy Extraordinary and Minister Plenipotentiary of H. C. M., in satisfaction of the interest for one year, (\$30,000,) due on the debt of Spain to the United States; for which a receipt, together with an order for the delivery of coupons, a copy of which is herewith enclosed, has been given to Mr. Calderon.—Upon presentation of the order referred to, you will, therefore, in the manner heretofore prescribed by the Department, cause to be delivered to the Government of Spain coupons corresponding with this amount.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. WESTCOTT.²

DEPARTMENT OF STATE,

WASHINGTON, June 1, 1847.

SIR: I have had the honor to receive your letters of the 29th & 31st instants. You request me to furnish you, "if not improper," with copies of the communication of Mr. Pakenham in relation to the admission of persons of color into Key West and of the reply of this Department. When I inform you that no reply has yet been made, you will at once perceive that it would be premature at least to furnish you a copy of Mr. Pakenham's note upon the subject.

From my note to the Secretary of the Treasury of the 17th inst., (a copy of which I transmit herewith,) you will learn how the case stands at present, so far as this Department is concerned.

As the Collector at Key West will receive his instructions

¹ MSS. Department of State, Instructions, France, XV. 53.² MSS. Department of State, 36 Domestic Letters, 261; S. Ex. Doc. 45, 32 Cong. 2 Sess. 15.

from the Secretary of the Treasury, it would, perhaps, be proper that I should refer your letters to him; but in this I shall be regulated by your own wishes.

Whilst I am not aware that any Southern State has contested the correctness of Chief Justice Marshall's decision in the case of the Brig Wilson, yet I know that several of these states have adopted effectual precautionary regulations to prevent such Free negroes and mulattoes as may constitute a part of the crew of vessels from holding intercourse with the slaves on shore during the continuance of such vessels in port. You need not trouble yourself by making me copies of the laws of Florida to which you refer, as we have them in the department; but you would greatly oblige me by referring me to all of them which have any bearing on the subject.

Yours, very respectfully,

JAMES BUCHANAN.

HON. JAMES D. WESTCOTT,
(U. S. Senator.)

TO MR. CRAMPTON.¹

DEPARTMENT OF STATE,
WASHINGTON, 4th June, 1847.

JOHN F. CRAMPTON, ESQRE.,
&c., &c., &c.

SIR:

Referring to a recent correspondence with Mr. Pakenham, on the subject of the discharge of Matthew Nelson, a deserter from Her Britannic Majesty's ship "Illustrious," I have the honor to communicate to you, herewith, a copy of a letter and its enclosures, just received from the Acting Secretary of the Navy, from which it will be seen that Nelson's discharge took place some time since, whilst the United States ship St. Mary's was yet at Pensacola—his term of service having expired before the order from the Navy Department relating to his case had reached its destination.

I avail myself of the occasion to offer you the assurance of my high consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Great Britain, VII. 161.

TO MR. NICHOLS.¹

DEPARTMENT OF STATE,

WASHINGTON June 4th 1847.

CHARLES NICHOLS, ESQRE.

U. S. C. Amsterdam.

SIR,

Observing many criticisms in the Public Journals upon an official letter alleged to have been addressed by you to the Mayor of Baltimore, I have just obtained from him a certified copy of this Document.

In it you state that "my (your) office is daily thronged with persons enquiring how they can emigrate; all are informed they must have a Consular certificate, setting forth character, property, &c."

In the same communication you have furnished the Mayor with a copy of this certificate, which sets forth that the emigrant is "of good character & possessed of some means, & migrates to the United States to establish himself in business, and make it his future residence;" and it then commends him "to the protection of the Civil Authorities, and also to the laws of the United States."

You also recommend the passage of a law by the City Councils of Baltimore "requiring all emigrants to procure a Consular Certificate, else they will be returned together with the Ship to the port from which they sailed, and the Captain heavily fined;" and in conclusion you state that "many object to take this certificate, on the ground, they say, there is no law making it obligatory."

This is certainly a most extraordinary document to have emanated from a Consul of the United States. The emigrants who refuse to take your Certificates are in the right, and they give the true reason, that "there is no law making it obligatory." I hope it may appear in the sequel that you have exacted no Fees for these Certificates; otherwise the inference will be drawn, whether correctly or incorrectly, that you have adopted this course from mercenary motives, rather than a desire to serve your Country.

Your official duties are designated by Law, and are clearly defined by your General Instructions. These do not authorise you to issue such certificates to emigrants, much less to demand

¹ MSS. Department of State, Despatches to Consuls, XII. 324.

fees for the performance of the service. Besides, this Department does not recognise your right as Consul to address official Communications to any authority except itself, on questions involving the political interests of the United States and of foreign Countries. When you have suggestions to make on such subjects, I shall always be happy to give them that attention which they deserve.

The subject of Emigration is one which belongs exclusively to the Legislative power. Neither this Department nor the Consuls of the United States have any authority to impose restrictions on emigrants in cases where the law is silent. Congress had the whole subject before them at their last Session; and they enacted laws intended to provide for the health and comfort of the emigrants on their passage to the United States. They did no more; and I undertake to say that they never will make poverty a barrier against emigration to this land, which has ever been the asylum of the poor and oppressed foreigner; however necessary it may become to protect ourselves against the importation of Criminals from other countries.

You will please report to this Department as early as practicable the number of Certificates referred to, which you have issued to Emigrants, and the amount of Fees, if any, received for the same.

I am &c.

JAMES BUCHANAN.

TO MR. JONES.¹

DEPARTMENT OF STATE,
WASHINGTON, June 7, 1847.

WALTER R. JONES, Esq.

(President of the Board of Underwriters, New York.)

SIR:

I had the honor yesterday to receive your favor of the 5th Inst. You request information "in relation to the proceedings at Barcelona and Madrid and elsewhere growing out of" the capture of the barque "Carmelita" by the alleged Mexican Privateer, the "Unico." In answer, I have to inform you that both our Consul at Barcelona and our Minister at Madrid have exerted themselves, with promptness and energy, to obtain the

¹ MSS. Department of State, 36 Domestic Letters, 263.

release of the Carmelita and her crew, and the execution of the 14th article of our Treaty with Spain of 1795. Their efforts had not, however, proved successful on the 7th May last, my latest date from Barcelona; though I can scarcely doubt that ere this the prize has been released from her captor.

It is pretty certain from the information which I have received that the "Unico" is a Mexican privateer only in name. Her crew are all, or nearly all, Spanish subjects; and she proceeded on her cruise from the Port of Oran.—It is believed that she is owned by Spaniards, residing in Barcelona.

Mr. Appleton, the Acting Secretary of the Navy, informs me, that he wrote to you on Saturday that orders had been issued in April last to the commander of the African squadron to send a vessel of War to the Mediterranean. An additional force, probably the Princeton, will be sent to that station for the protection of our commerce with the least possible delay.

I am &c.

JAMES BUCHANAN.

TO MR. OSMA.¹

DEPARTMENT OF STATE,
WASHINGTON, 9th June, 1847.

To SENOR DON JOAQUIN José OSMA,
&c. &c. &c.

The Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Osma, Minister Plenipotentiary of Peru, of the 22nd of April, last, accompanied by a copy of a law of the Peruvian Congress, passed on the 23d November, 1839, declaring that "the Nation does not acknowledge the Treaties concluded by the invader Don Andres Santa Cruz with Great Britain and the United States of America."

It appears that this law, although passed on the 23d November, 1839, was not ordered to be published until the 31st May, 1845, and the first knowledge which this Government ever acquired of its existence was derived from Mr. Osma himself in the month of April, last, more than seven years after its passage.

¹ MSS. Department of State, Notes to Peru, I. 2.

The Convention which this law refuses to recognize was concluded at Lima on the 30th November, 1836, between a Plenipotentiary of the President of the United States and a Plenipotentiary of "the Supreme Protector of the North and South Peruvian States, President of the Republic of Bolivia, encharged with the direction of the Foreign Relations of the Peru-Bolivian Confederation." This Convention was duly ratified by both parties, and the ratifications were exchanged at Lima on the 28th May, 1838. The President, on the 3d October, 1838, proclaimed this Treaty, and under the Constitution of the United States it became "the supreme law of the land," and a guide for such of our citizens as might have intercourse with the States of which the Peru-Bolivian Confederation was composed. As such, it has ever since been published in the different editions of the laws of the United States.

After more than seven years and six months have elapsed from the date of this proclamation, the Government of the United States have been informed for the first time by Mr. Osma that the Peruvian nation does not acknowledge this Convention. That this Government could not have acquired any such knowledge from the conduct of the Peruvian Government, is substantially admitted by Mr. Osma himself, who states that his Government has always acted and still intends to act in conformity with the provisions of the Convention.

Under these circumstances, Mr. Osma, in his note of the 22nd April, last, has gone into an extended argument for the purpose of proving that the Government of General Santa Cruz, by which this Convention was concluded, was not such a Government *de facto* as was capable of binding Peru by Treaties with foreign nations.

It is not the intention of the Undersigned at present to reply to this argument. If this were his purpose, he might contend with great force that the long acquiescence of the Peruvian Government in the terms of this Convention, without any notice or intimation to the contrary, precluded it at this late day from objecting to the authority by which that Convention was concluded. In addition, he might urge, even from the note of Mr. Osma, without any other historical reference, that General Santa Cruz invaded Peru towards the end of the year 1835, that he had acquired the supreme power over that country in the campaign of the year 1836, and before the conclusion of the Convention, that he maintained himself in possession of this power until

after the exchange of the ratifications of this Convention at Lima in May, 1838, and that it was not until January, 1839, that he was "put down and driven from the country."

The Undersigned might further insist that the conduct of the Government of the United States in regard to the Convention with Peru of the 17th March, 1841, cited by Mr. Osma as a precedent, is not applicable to the present case, that Convention having expressly required that it should be approved by the Congress of Peru, whilst the Convention in question contains no such stipulation, doubtless because it was concluded with an individual who had himself acquired, or, as Mr. Osma observes, had usurped the supreme power.

But the Undersigned would willingly avoid any such discussion. The President desires to cultivate the most friendly relations with the Government of Peru, and to avoid every point of controversy which can be honorably avoided. In proof of this, he is willing to conclude a new Commercial Convention with Peru, and thus leave the validity of the present Convention undecided, unless some practical question should arise which might render such decision necessary. He does not perceive what objection can exist against this course of proceeding, as it is admitted that the terms of the present Convention are unobjectionable. This will obviate every difficulty.

The Undersigned avails himself of this occasion to offer to Mr. Osma renewed assurances of his very distinguished consideration.

JAMES BUCHANAN.

TO MR. TOD.¹

No. I.

DEPARTMENT OF STATE,

WASHINGTON, 11th June, 1847.

To DAVID TOD, ESQUIRE,
etc., etc., etc.,

SIR:—

You have been made fully acquainted with the origin, progress, and adjustment of the unhappy controversy between the Brazilian Government and Mr. Wise, arising out of the imprisonment of Lieutenant Davis and the three American

¹ MSS. Department of State, Instructions, Brazil, XV. 147.

sailors at Rio de Janeiro in October, last. The President until very recently had not entertained a doubt but that the settlement of this unpleasant affair between Mr. Lisboa and myself, upon terms honorable to both parties, would receive the approbation of the Brazilian Government. In this confident expectation, however, it would seem he has been disappointed. From the tone of the public Journals at Rio, as well as from advices, though not of an official character, received at this Department, it is possible that the Brazilian Government may disavow the settlement as unauthorized, and may recall its Minister. It is right, therefore, that you should receive instructions to guide your conduct should this contingency have happened.

The President will not depart from the ground which he has already occupied upon this question. He will consider it as definitely settled until the Brazilian Government shall again attempt to reopen the discussion. In that event, the attempt will doubtless be made at Washington, not at Rio de Janeiro; and even upon a contrary supposition, it would now be impossible to furnish you instructions upon the subject, as the Department has received no official information on which these could be based. Unless further instructed, therefore, you will not suffer yourself to be drawn into any discussion of this question. Still, you may do much to tranquillize the Brazilian authorities and to convince them of the propriety of consigning this whole affair to oblivion. In all your intercourse, you will treat them with the utmost respect, and give them every assurance of the President's continued desire to cultivate their friendship. The commerce between the two countries is eminently beneficial, and any movement upon the part of either which might threaten its interruption could not fail to prove highly prejudicial to both. With these precautionary observations, the subject is left to your own ability and discretion, from which the President augurs the happiest results.

The recall of Mr. Lisboa would be unjust to him as well as disagreeable to the President. Throughout the whole affair, he has manifested the most anxious desire to serve his own country with honor and fidelity and at the same time prevent a serious misunderstanding between the two Governments. This Government has neither sought nor obtained any advantage over him. I am perfectly persuaded that no candid and intelligent person who would carefully examine the testimony on both sides could fail to arrive at the conclusion that the controversy con-

cerning the imprisonment of Lieutenant Davis and the three American sailors has been settled upon fair and just terms for both parties.

Mr. Lisboa has long represented his country in the United States, and has, by his uniformly correct conduct, acquired the regard both of the public authorities and the people. He is held in general esteem by all who know him. Indeed, I am persuaded that no other Minister who could be sent from Brazil would be capable of rendering so much service to his country. His recall, under existing circumstances, would produce a sensation throughout the United States, and would inflame and aggravate a quarrel which has hitherto commanded very little of public attention.

Whilst any active interference on your part in favor of Mr. Lisboa might be misconstrued and do him more injury than benefit, still, in conversation with the Brazilian Minister for Foreign Affairs, should a favorable opportunity offer, you might do justice to the fidelity, ability, and success with which he has served his country.

The full power with which you have been furnished will enable you to conclude and sign a commercial Treaty with Brazil, should the Government of that country manifest a disposition to conclude such a Treaty upon fair and equal terms. The Treaty of 1828, so far as it relates to commerce and navigation, was terminated by the notice for which its thirty-third article provides,—which notice was given by the Brazilian Minister here, in obedience to instructions from his Government. This Treaty may be the model for a new one, having due regard to the alterations and changes suggested by me in the marginal notes to the copy of it with which you have been furnished. The hope is entertained that the Government of Brazil will consent to conclude such a Treaty; and your best efforts ought to be directed to the accomplishment of an object so desirable.

You will observe that the 33d Article of the old Treaty provides that at the expiration of one year after the required notice shall be given, "this Treaty in all the parts relating to commerce and navigation shall altogether cease and determine, and in all those parts which relate to peace and friendship, it shall be permanently and perpetually binding on both parties."

Difficulties have already arisen and may probably arise hereafter under this obscure phraseology, in ascertaining what parts of the Treaty have been abrogated and what parts remain

in force. To avoid controversies between the two Governments, it would be proper that you should come to a distinct understanding with the Brazilian Government on this subject. It appears to me that the true construction is that all parts of the Treaty are still in force except those which place the impost and tonnage duties of the respective parties upon terms of perfect equality and reciprocity. These, and these alone, relate directly to commerce and navigation. The other portions of the Treaty all properly relate to peace and friendship; because nothing is better calculated to preserve these invaluable blessings than distinct treaty stipulations on every point of difference which may probably arise between the two Governments. Under this construction, the following parts of the Treaty would remain binding on the parties, to wit: Article I; that clause of the third Article which provides, "that the citizens and subjects of each may frequent all the coasts and countries of the other, and reside and trade there in all kinds of produce, manufactures, and merchandize;" Articles VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII, and the whole of the 33d article, except that portion of it providing for giving the notice, which has already performed its office.

Your Full Power also authorizes you to conclude a Convention for the adjustment of the claims of citizens of the United States against the Government of Brazil. This is a subject which has received much of the attention of your predecessors and of this Department, but the progress made in bringing it to a close has disappointed all just expectations, owing to the repugnance of the Brazilian Government to discuss or decide the claims upon their merits. With his despatch No. 57, Mr. Wise has transmitted to the Department a voluminous reply, dated 1st February, last, to a note addressed to him by the Minister for Foreign Affairs on the 9th of January, on the subject of the prize claims. As he has omitted to forward a copy of the Minister's note itself, the Department cannot, in its absence, determine whether any or what new instructions in regard to those claims may be necessary. You are consequently requested to furnish the Department with a copy of that note as soon after your arrival at Rio de Janeiro as may be practicable; and in the mean time execute all the instructions given to your predecessors so far as they may be applicable. Details respecting the other

claims are contained in the correspondence, to which you are referred for your information and guidance.

Your particular attention is invited to the paragraph in the instructions of this Department to Mr. Wise, No. 18, of the 27th September, 1845, relating to the slave trade and the stipulations in the 9th Article of the Treaty between the United States and Great Britain of the 9th of August, 1842.

I am, Sir, very respectfully, your obedient servant,

JAMES BUCHANAN.

TO COLONEL FREMONT.¹

Private.

WASHINGTON 11 June 1847.

MY DEAR SIR.

I have received your despatch of the 6th February last & referred it to the Secretary of War.

It may be proper to explain to you the reason why this was done. The civil government of California is at present but a mere emanation from the war making power. It rests upon military authority alone, & as such is justified from necessity under the law of nations. It is temporary in its character & has never yet been recognized by Congress. Under these circumstances, the Secretary of War is the appropriate channel through which the military Governor should address the President. This you have doubtless long since learned from the President's message of December last.

I regret exceedingly the controversy which has arisen between General Kearney & Commodore Stockton. We are all very sorry that you have been involved in it. We doubt not, however, that all difficulties were terminated on the receipt in California of the orders issued by the Secretary of the Navy to Commodore Stockton of the 5th November last & those of General Scott to General Kearney of the 3d of the same month. From their date, you will at once perceive that these instructions were founded upon general principles & could not possibly have had a personal application to yourself as Governor. General Scott directs General Kearney to consult your wishes in regard to your return home & not to detain you "a moment longer than

¹ Buchanan Papers, Historical Society of Pennsylvania.

the necessities of the service may require." I need not say that this was intended in kindness to yourself.

Your military career in California has increased your high reputation, & the President had evinced his sense of your previous services by your appointment as Lieutenant Colonel. Your course must be onward & you have a bright future before you.

I was much pleased with Carson. He will return to you a second Lieutenant in the Rifle Regiment. I suggested the propriety of his appointment to the President & Secretary of War, & they acceded to it without a moment's hesitation.

It is scarcely possible to form any opinion in regard to the conduct of Mexico. I should not be astonished to hear any day that a Treaty of peace had been concluded, & I shall not be much disappointed should the war continue for years to come. Chaos reigns supreme in that ill fated country. Its government is that of a military despotism without its stability. It is perpetually changing according to the interest or caprice of the army, but never grows better. Until this corrupt army shall be destroyed, there can be no hope of deliverance for the people. On a small scale, it enacts the part of the Pretorian Guards.

I shall not give you any family news, because I know Carson will take this to you in abundance from the fountain head.

With the most sincere wishes for your health and prosperity, I remain very respectfully your friend.

J. B.

COLONEL FREMONT.

TO MR. WISE.¹

No. 34.

DEPARTMENT OF STATE,

WASHINGTON, 12th June, 1847.

To HENRY A. WISE, ESQUIRE,
etc., etc., etc.

SIR:—

Enclosed, I transmit by Mr. Tod a sealed letter from the President of the United States to the Emperor of Brazil, announcing the termination of your mission. An open copy of the letter also accompanies this. From the relations subsisting

¹ MSS. Department of State, Instructions, Brazil, XV. 146.

between yourself and the Brazilian Government, it may be doubtful whether the Emperor will grant you an audience for the purpose of presenting the original. It is very desirable that he should do so and that past differences may be forgotten. This would produce a happy effect in both countries. If you should ascertain, however, that such an audience would be refused, it might be better that it should not be asked.

The Ohio, which will carry out Mr. Tod to Rio, will remain in that port until the arrival of the Brandywine, the vessel destined to relieve Commodore Rousseau. This arrangement has been made for your accommodation and so as to enable the Commodore and yourself to return immediately in the Columbia to the United States. From your late despatches it is manifest that you desire to leave Brazil with as little delay as possible. The Brandywine may not reach Rio until a month or more after the arrival of the Ohio.

Your despatches to No. 59, inclusive, with the exception of No. 56, have been received.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. SAUNDERS.¹

(No. 14.)

DEPARTMENT OF STATE,

WASHINGTON, 13th June, 1847.

ROMULUS M. SAUNDERS, ESQRE.,
&c., &c., &c.,

SIR:

Your despatch No. 11, and Nos. 12 and 14 from Mr. Reynolds, with their respective enclosures, were received at this Department on the 5th instant.

It is proper that I should advert, without delay, to the subject of the capture of the American Barque "Carmelita," by the so-called Mexican Privateer the "Unico," and the proceedings of the Spanish Government, as detailed by Mr. Reynolds, consequent on the arrival of this Privateer with her prize in the Port of Barcelona.

No sooner had Mexico commenced the war against the

¹ MSS. Department of State, Instructions, Spain, XIV. 224.

United States, than indications appeared of an intention on the part of the Mexican Government to arm privateers against our commerce. It was known to the whole world that Mexico had neither vessels nor mariners; and it was evident, therefore, that these enterprises could only be conducted by foreigners. Accordingly, a law was passed by the Mexican Congress on the 25th of July, 1846, authorizing the Executive to deliver commissions either in Mexico or any other country, to those who might accept them, whether Mexicans or foreigners, to cruise against the enemies of the Nation. On the following day, General Paredes, then the President *ad interim*, issued a decree containing regulations to that effect; of which the 2nd Article declares, that—

“The Captain of the Privateer, her officers and other persons of her crew, who may be foreigners, shall be considered as Mexican subjects, from the moment of their enlistment for the service; enjoying, as such, all the advantages conceded to them in the present regulation, and remaining subject to all its laws.”

By Article 8th—“In foreign countries, the persons interested may apply to the Consuls, or Agents, thereunto authorized, who will issue the commissions on receiving the proper security.”

Article 65th provides, that—“When prizes are taken at places very distant from the Coasts of the Republic, and near to ports belonging to neutral powers, they may be carried to the nearest port, which they are allowed to enter, where there may be a Mexican Consul or Agent, and may be there sold, if they evidently belong to the enemy, in the opinion of the Consul. Except in those cases, such measures can only be taken, when the ports of the Republic cannot be reached without imminent danger.”

These regulations, 109 in number, were published in the “*Diario Oficial*” of Mexico, on the 27th July, 1846.—This measure was devised for the purpose of raising revenue by the sale of these Commissions. Accordingly, after Paredes was expelled from power, General Salas, his successor, in the month of October last, despatched Agents to the Havana, and to Europe, with a large number of Privateers’ Commissions in blank, for sale to all persons, of whatever Nation, who might be willing to purchase them. The lowest price asked for one of them at the Havana was \$1000. I have a set of these papers now in my possession; of which I transmit copies.

The first of them is called a “National Passport for the

Privateer," and the second "a prize letter." These are both signed by General Salas, and countersigned by Almonte. The third is "a letter of naturalization," signed by Salas, and countersigned by Rejon.

Señor Pereda, who now figures at Madrid as Chargé d'Affaires of the Mexican Republic, was one of the Agents employed to conduct this infamous traffic. He left the City of Mexico on the 25th October last, in company with two other Agents, and arrived at the Havana early in November. From thence it is presumed he proceeded to Madrid, where, I regret to say, he did not meet with an unfavorable reception, as appears from his letter to the Mexican Consul at Barcelona, dated on the 22nd January last; of which Mr. Reynolds has transmitted me a copy. The Spanish Government must surely have been conscious, at the time, that it was impossible there could be any bona fide Mexican Privateers fitted out in the Mediterranean; and that the reliance of Mexico for plundering American commerce, in that portion of the world, must have been upon Spanish subjects. They must, also, have been aware, that under the 14th Article of our Treaty of 1795 with Spain, such of their subjects as should accept commissions to cruise against the commerce of the United States, would be guilty of piracy, and render themselves liable to be tried, condemned, and executed. Under such circumstances, what ought to have been the conduct of a neutral and friendly Government when Mr. Pereda presented himself at Madrid bearing these commissions? What, from the assurances received from Spain, had we a right to expect would be the conduct of the Spanish Government?

The issuing of letters of Marque and Reprisal is an act of high sovereign authority. Under the Constitution of the United States, this power is entrusted alone to Congress. A declaration of war, without a special provision for the purpose, contained in the Act, does not confer upon the President this authority. Whenever civilized Governments resort to this expedient to annoy their enemies, they adopt the regulations and restrictions necessary to prevent or punish abuses almost necessarily arising from the grant to private individuals of the authority to make war upon the ocean. Responsible securities are required in such cases, from the commanders of Privateers, to prevent them from abusing their high trust. By means such as these, the rights of the citizens and subjects of the Power granting the commission, as well as those of neutrals, are maintained; and the rights of

war, according to the practice of civilized nations, are secured even to the enemy. These precautions are necessary to prevent such commissions from falling into the hands of freebooters, slave-traders and pirates, prepared to violate all laws, human and divine, in the pursuit of plunder.

What then must be thought of a Government, in the nineteenth century, which, disregarding all its high duties, sends its agents abroad with hundreds of blank commissions to Privateers, to be sold to all the wretches upon earth base enough to make the purchase? The high prerogatives of Sovereign power are thus transferred to the lowest agent, who is authorized to fill up the blank in the commission, by inserting the name of the commander of the Privateer. Well did the President observe, in his last annual message to Congress, that, "as the preliminaries required by the practice of civilized nations for commissioning Privateers, and regulating their conduct, appear not to have been observed, and as these commissions are in blank, to be filled up with the names of citizens and subjects of all nations who may be willing to purchase them, the whole proceeding can only be construed as an invitation to all the freebooters upon earth, who are willing to pay for the privilege, to cruise against American commerce. It will be for our Courts of Justice, (and I might add, those of Spain and other countries), to decide whether, under such circumstances, these Mexican letters of Marque and Reprisal shall protect those who accept them, and commit robberies on the high seas under their authority, from the pains and penalties of piracy." Most certainly all civilized nations ought to set their face against such proceedings, and adopt every expedient to prevent their neutrality from being violated by the issuing of such commissions within their territories.

Under these circumstances, even if the Treaty of 1795 had never existed, the Spanish Government ought to have informed Mr. Pereda that such vessels, assuming the name of Mexican Privateers, could find no shelter in Spanish ports. That, under the law of nations, the sale or grant of such commissions, or the fitting out or increasing the armament of such a vessel, within the territories of Spain, would be a violation of her rights as a neutral nation, and a grievous wrong to the United States, and should be visited with severe penalties. Had they known the fact, they might have added that, in our country, Congress, in order to carry into execution the law of nations, under the neutrality Act of April 20th, 1818, had denounced a punishment,

in the discretion of the Court, of a fine not exceeding \$10,000, and an imprisonment of not more than three years, against any person who shall issue or deliver a privateer's commission within the territory or jurisdiction of the United States, to cruise or commit hostilities against the commerce of any nation with whom they are at peace. Severe penalties are also denounced, under this law, against any citizen of the United States, who shall, within their territory, accept such a commission. But, above all, the Spanish Government ought to have informed Mr. Pereda, that any Spanish subject who might accept a commission from him, or any of his agents, to act as a Privateer against the United States, would, under the 14th Article of the Treaty of 1795, be punished as a Pirate. And that, in order to preserve the faith of this Treaty, Spain would instantly restore to its owners any prize taken by such a vessel, if brought within her jurisdiction, and punish the master thereof, who had accepted the commission, as a Pirate.

But what was the conduct of the Spanish Government upon this occasion? It does not appear that they discouraged, in the slightest degree, the enterprise of Mr. Pereda, the Mexican Chargé d'Affaires at Madrid. No warning whatever was given to him to desist. On the contrary, according to his letter to the Mexican Consul at Barcelona, dated on the 22nd January, 1847, and published in the "*Diario*" of that place, on the 7th May, 1847, the President of the Council had declared to him, that the Government of Her Catholic Majesty had resolved, "that the prizes brought by the privateers of the Republic may be admitted into the Island of Cuba, as well as into the ports of Spain;" thus affording them an asylum against recapture by American cruisers. It is, to be sure, added, "that the equipment of privateers will in no way be tolerated; nor the discharge, sale, or deposit of the property taken be allowed." The strangest and most suspicious circumstance attending the transaction is, that this resolution of the Spanish Government was adopted upon the report of General O'Donnell, after a conference at the Havana, either between him and Mr. Pereda, or him and Mr. Blanco, the Mexican Consul at Barcelona; it does not clearly appear which. Thus, it would seem that, at the Havana, where hundreds of these blank commissions had been brought, the way was prepared by the Captain-General for the favorable reception of Mr. Pereda at Madrid.

All these proceedings of the Spanish Council of Ministers,

I infer, were kept entirely secret from the American Legation at Madrid, and were first published in the "Diario de Barcelona" of May 7th, 1847, by the Mexican Consul, when it became necessary for the protection of the "Unico" and her prize.

After thus preparing the way, Mr. Pereda, Mr. Blanco, and other Mexican Agents, might proceed to sell and deliver commissions to any subject of Spain with perfect impunity. The President of the Council had not warned them that such sales in Spanish ports would be illegal; and I have not a doubt that the commission delivered to Mr. Sisa, the Captain of the "Unico," being a Spanish subject, was sold or delivered to him by Pereda, or his agent, within the dominions of Spain. Mr. Littlefield, the master of the "Carmelita," asserts the fact positively, "that there is not a single Mexican on board (the Unico); they are all Spaniards, except one or two French and Portuguese. As far as I can learn, she was fitted out in this Port (Barcelona), and is owned here by persons who will use their utmost endeavors to have my vessel condemned." "She has evidently been a slaver or pirate before." She may have probably commenced her cruise from Oran to cover up the real nature of the transaction.

Another fact is well worthy of observation. The "Unico" was at anchor with her prize in the Port of Barcelona. Under these circumstances, Mr. Reynolds addressed a note to Mr. Pacheco on the 7th May, informing him, that she was "owned, commanded, and manned by Spanish subjects, and was fitted out in Barcelona," and asking him, under this statement of facts, "to order the detention of the said vessel, the 'Unico,' her commander, officers, and crew, if there is any plausible ground to believe the above allegations true; *to the end that all Spanish subjects connected with her, contrary to the 14th Article of the Treaty of 1795, may be proceeded against as pirates, under that Treaty.*"

The orders transmitted to the Captain-General of Catalonia, dated 9th May, in answer to this demand, from which Mr. Reynolds has transmitted me an extract, are vague and unsatisfactory.

"If the vessel," say the orders, "making the prize is not Spanish," she is to be allowed "to remain in port and depart freely with her prize, provided the latter bear the flag of the party making the prize." But suppose the vessel making the prize to be Mexican, or belong to any other nation, and the

captain and crew to be Spanish subjects, then, under these orders she may depart in peace. There is not a word said in regard to the seizure and punishment of the Spanish Captain of the Privateer as a pirate, nor of the restoration of the prize to her owners. Indeed, the Treaty of 1795 is not even alluded to in these orders, although this was the special point of Mr. Reynolds' note.

Again, under the orders, if it should turn out "that the vessel making the prize is Spanish," the prize is to be immediately set at liberty; those who captured her are to be made responsible to her owners, and are to be subjected—not to punishment as pirates, under the 14th Article of the Treaty of 1795,—but "to the punishments which they may have merited, by violating the laws of neutrality, issued by her Majesty." What these laws are, I do not know; but the violation of the laws of neutrality and the guilt of piracy, in all human codes, are entirely distinct offences.

But even in case the "Unico" and her crew were not Spanish, and belonged exclusively to Mexican citizens, still a further inquiry ought to have been made before she should be permitted to depart; and this is, was she fitted out within the dominions of Spain? In this case, under the law of nations, the appropriate tribunal in Spain has jurisdiction to determine the validity of the capture, and ought to vindicate the neutrality of the Spanish Government by restoring the prize to its owners,—being the citizens of a friendly nation; this, for the plain reason that Spain ought not to suffer such an abuse of her neutral territory by one of the belligerents to operate to the prejudice of the other. This principle is laid down in Wheaton's Elements of International Law, p. 429; and is fully sustained by the cases there cited. Vide, also, Wheaton on Captures, p. 257.

It is manifest, from the whole proceeding on the part of the Mexican Government, that they calculated upon the friendship of Spain to help them out of their desperate attempt to hawk privateers' commissions against the United States within her dominions. Without this expectation, they surely never would have engaged in such a desperate enterprise. After a Mexican privateer has captured an American vessel, the property cannot be transferred until after it shall have been condemned by a Court of Admiralty; and the question of prize, or no prize, belongs exclusively to the Courts of the Captor. These principles of public law are incontestable. At the time the Mexican Government

issued these Commissions, they knew perfectly well that the prizes of their privateers could not be brought within Mexican ports for condemnation. Aware of this impossibility, they have attempted to overcome it in their prize regulations, by conferring on their Consuls in Foreign Ports the power, in effect, of condemning prizes made by their privateers. But no principle of public law is settled on surer foundations, than that "neutral ports are not intended to be auxiliary to the operations of the parties at war;" and the law of nations has very wisely ordained, that a prize Court of a belligerent captor "cannot exercise jurisdiction in a neutral Country. All such assumed authorities are unlawful, and their acts are void." I quote from the language of Chancellor, then Chief Justice Kent, in delivering the opinion of the Court in the case of *Wheelwright v. Depeyster*, 1 Johnston's Reports, 481; and the authorities cited by him fully justify the decision. One of these is the case of *Glass et al. v. the Sloop Betsey*, (3 Dallas' Rep. p. 6); in which the Supreme Court of the United States sanctioned this principle so early as the year 1794.

By the Act of 20th April, 1818, Congress, in accordance with the law of nations, has defined our neutral obligations to all friendly Powers, and denounced proper punishments for their violation. We have always faithfully performed our duties of neutrality, as well as our Treaty stipulations, towards all nations; and, in return, we shall insist upon the performance of these duties towards the United States.

This Government cannot recognize the lawful existence of Mexican Privateers in the Mediterranean. Those assuming this name have not received their commissions in Mexico, but in friendly countries, where to grant or to accept them was a violation of neutral rights; they do not belong to Mexican citizens, and their crews are composed chiefly of Spanish subjects, who, by the act of accepting such commissions, become pirates. These Corsairs take to the seas, under color of commissions issued in blank and filled up in a Spanish Port by some inferior agent, from whom they have purchased the privilege to plunder American vessels. Among their crews will be found pirates, slave-traders, and freebooters of almost every country, except Mexico herself, ready to prey upon the commerce of all nations, when this can be done with impunity. The character and the interests of all Christendom require that they should not receive the countenance of any civilized nation.

Our vessels of war in the Mediterranean will be ordered to

seize and send home for trial as pirates, under the Treaty of 1795, and the Act of March 3d, 1847, all Spanish subjects who have accepted and acted under such Mexican commissions.

I presume it will scarcely be contended by any person that the act of accepting a Mexican commission, which, under "the Regulations for Privateers," would transform a Spanish subject into a Mexican citizen, can produce the least possible effect. If it could, it would then be in the power of Mexico, by a dash of the pen of one of her subordinate agents,—by merely filling up a blank certificate of naturalization, in the dominions of Spain, to annul the solemn obligations of an ancient Treaty.

It is hoped that the Spanish Government, since the date of Mr. Reynolds' despatches, have adopted a course towards the United States more in conformity with their Treaty and neutral obligations than these despatches would indicate. I trust that, by the next arrival, we shall learn that the "Carmelita" has been discharged, and the commander and crew of the "Unico" have been subjected to trial for their alleged crimes. Should the case be otherwise, and the "Unico" have been permitted to depart from Barcelona, you are instructed to protest, in a firm but respectful manner, against the conduct of the Spanish Government, as a violation both of Treaty stipulations and neutral obligations;—and to declare explicitly, that the United States will hold Spain responsible for all the damages which have been or may be sustained by American citizens in the premises, and in all similar cases which may occur hereafter.

It is not intended that you shall copy the whole or any part of these instructions into your note to the Spanish Minister for Foreign Affairs. On the spot, and with a knowledge of the circumstances existing at the time, you will be best able to judge what it ought to contain. The President, relying on your firmness, vigilance, and discretion, leaves this important question in your hands; and has the fullest confidence that you will ably and faithfully perform your duty.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. TRIST.¹

(No. 2.)

DEPARTMENT OF STATE,

WASHINGTON, 14th June, 1847.

To NICHOLAS P. TRIST, ESQUIRE,
&c. &c. &c.

SIR: Your despatch of the 21st ultimo, which you have numbered 4, was received on the 3d instant. None of a later date from you has yet come to hand.

The original letter from General Scott to yourself, dated at Jalapa, May 7, 1847, which you have transmitted with your despatch, is certainly of a most extraordinary character. It was well calculated to wound your feelings and excite your indignation. This letter surely never would have been written had he awaited your arrival at his head quarters and read the instructions and the projet of a Treaty with Mexico which you were authorized to communicate to him confidentially. The perusal of these documents must have put to flight the unfounded suspicions in regard to your mission which seem to have preoccupied his mind and influenced his conduct.

You were entrusted with no further agency in regard to my communication of the 15th April, last, addressed to the Mexican Minister for Foreign Relations, after it was placed in the hands of General Scott. Your whole duty respecting it was then performed. If he has either refused or neglected to transmit that important document to the Minister to whom it was directed, and thus violated a military order of the President issued to him through the Department of War, he has incurred a heavy responsibility; but for this he is neither answerable to the Department of State nor to the Commissioner to Mexico. The question belongs exclusively to the military branch of the Government.

You might safely have relied upon the Government here for the vindication of your character and conduct. Indeed, General Scott's letter to you had upon its face placed him so clearly in the wrong, that no commentary upon it, however able, which you may have written, can have made the case plainer. Some days before the arrival of your despatch, the War Department had received a despatch from the General, enclosing a copy of

¹ MSS. Department of State, Instructions, Mexico, XVI. 62. Extracts printed in S. Ex. Doc. 52, 30 Cong. 1 Sess. 89, 112; S. Ex. Doc. 60, 30 Cong. 1 Sess. 52; H. Ex. Doc. 56, 30 Cong. 1 Sess. 16; H. Ex. Doc. 60, 30 Cong. 1 Sess. 827; H. Ex. Doc. 69, 30 Cong. 1 Sess. 52.

his letter to you; and a judicious and appropriate answer, dated on the 31st of May, was returned to him by the Secretary of War.

Whilst our armies are in the country of the enemy and our Minister of Peace is at the Head Quarters of the commanding General, this is no time for personal altercations between them if these can possibly be avoided. Under such circumstances, the greater the sacrifice of private griefs, however well founded, which you may make upon the altar of your country, the more will this redound to your honor hereafter. You have been despatched to Mexico by your Government as a Minister of peace; and to accomplish the great object of your mission, a hearty coöperation between the General and yourself may be indispensable. Under these considerations, I am directed by the President, in case amicable relations shall not in the meantime have been restored, to instruct you to call upon General Scott and offer to communicate to him confidentially the instructions and the projet of a Treaty with which you have been entrusted, and to report to this Department without delay the circumstances and the result of your interview.

Governor Marcy has again written to General Scott by the messenger who will bear you this despatch.

Enclosed, I transmit you a copy of the orders issued on the 11th instant by the President to the Secretaries of War and of the Navy upon the Report of the Secretary of the Treasury of the day preceding in relation to the Mexican Tariff. From these you will perceive it has been announced to the world that the Government intend to provide, by the Treaty with Mexico, that goods imported into any of the ports of that country whilst in our military possession, shall be exempt from any new import duty or charge after the conclusion of peace. This will render it necessary for you to insist upon the insertion of the 9th article of the Projet of the Treaty. Indeed, you may consider this as a sine qua non.

Yours, very respectfully,

JAMES BUCHANAN.

TO MR. WISE.¹

WASHINGTON 15 June 1847.

MY DEAR SIR/

I hope you may be able to depart in peace from Rio: and trust that the Emperor may grant you an audience of leave. I have, however, suggested in your instructions, that if you should ascertain this would be refused, it might perhaps be better not to ask it. What I desire to avoid is any explosion on the eve of your departure, as much for your own sake as that of the administration. I rejoice to learn that you have done us justice & are satisfied with our conduct; but that this would be the case I have never doubted.

My feelings are deeply interested for Lisboa. He is one of the best & purest men I have ever known. Our acquaintance commenced fourteen years ago at St. Petersburg: and I have always found him the same correct man. True, he is somewhat of a formalist, but his heart is in the right place. He believes that he will be recalled; and whilst this apprehension deeply wounds his feelings, he bears it with much philosophy. Lisboa is a brave man. He has faithfully & ably done his duty to his Government: & it would be a crying sin that he should become the victim. No man could have more strenuously urged your recall than he did, as was his duty under the instructions of his Government. For his sake, also, I am, therefore, anxious that you should, if possible, part in peace from those people. I do not know that you can do any thing to save him; but if you can, I shall be greatly rejoiced. I know your heart would dictate this course.

In regard to Mr. Walsh, I entertain none but the most kindly feelings. I helped to save his father at Paris, & endeavored to save the son. But Mr. Morgan was an intimate friend of Mr. Tod & in delicate health, & he could not refuse his request. I think you will be pleased with Mr. Tod. He is a man of firmness & good sense. He can give you the latest news from the United States.

I see no immediate prospect of closing the Mexican war; still we are prepared upon the spot to take advantage of every favorable opportunity & it may terminate suddenly.

The symptoms are, I think, unmistakable that General Tay-

¹ Buchanan Papers, Historical Society of Pennsylvania.

lor will be the Whig Candidate for the Presidency; & they are strong that he will be supported by Mr. Calhoun.

In great haste, I remain as ever, sincerely & respectfully
your friend

JAMES BUCHANAN.

HON: HENRY A. WISE.

P. S. Mason informs me to-day that it may be two months before the Brandywine can leave the United States. I am glad, therefore, that the arrangement of ordering the Ohio to remain there until her arrival will relieve Commodore Rousseau & yourself so soon from "durance vile."

TO MR. TEN EYCK.¹

(No. 6.)

DEPARTMENT OF STATE,

WASHINGTON, 18th June, 1847.

To ANTHONY TEN EYCK, ESQUIRE,

&c. &c. &c.

SIR:

Triplicates of your despatches Nos. 1, 2, and 3, a duplicate of No. 4, and the original of No. 8 were received on the 7th May, last, and the originals of Nos. 9, 10, and 11 on the 19th of the same month. The original of No. 5 was received on the 19th February and those of Nos. 6 and 7 on the 23d and 15th of March, respectively. The series on the files of the Department is consequently complete from No. 1 to No. 11, inclusive.

Mr. Brown has not yet reached the United States; and serious apprehensions are entertained that the vessel in which he sailed from Honolulu has been lost at sea.

Your request for leave of absence for four or six months to visit California and Oregon has been submitted to the President, and although he desires very much to oblige you, he considers the interests committed to your charge to be of so important a character as not to permit you to be absent from your post for so long a period as such a visit would necessarily occupy.

The mass of your despatches having arrived at so late a period and my attention in the mean time having been exclusively occupied with more important and pressing engagements, it is

¹ MSS. Department of State, Special Missions, I. 258.

impossible for me by the present opportunity to answer your different inquiries in detail. I shall, however, make some general observations for your guidance.

In acknowledging the independence of the Hawaiian Islands, we recognized that their Government possessed the rights and was competent to perform the duties of an independent State. That Government is yet, as it were, struggling into existence, and no doubt is controlled by unfortunate influences. Still, a diplomatic agent is not sent abroad to reform the Government to which he is accredited. Any attempt to do this on his part, unless conducted with great discretion, can only be productive of injury to his own country. Feeble governments are always the most jealous of the appearance of foreign interference in their domestic concerns. You should therefore carefully avoid this appearance, unless when your agency shall become necessary to protect the rights of American citizens.

You were instructed to "cultivate a good and kind understanding with the King and the officers of his Government, by every honorable means in your power." From the manner of your reception by the King and the kind and respectful commendations which have been bestowed upon you by the Sandwich Island Journals, as well as from your abilities and discretion, the President anticipates the most favorable results from your mission.

I scarcely deem it probable that the Hawaiian Government will conclude a Treaty with the United States in conformity with the project which you have transmitted to the Department. They will consider that this would trench too much upon their rights as an independent nation. Nor can I concur with you in the opinion that if such a Treaty, however desirable, cannot be procured, we would be as well off without any. I have reexamined the British Treaty with the Hawaiian Government, and confess I think that a similar Treaty with the United States could not fail to prove advantageous to our interests. You are, therefore, again instructed to conclude such a treaty if a better cannot be obtained.

It appears that the Hawaiian Government has appealed to Great Britain to annul the third article of the Treaty, which provides that "no British subject accused of any crime whatever shall be judged otherwise than by a Jury composed of Foreign residents, proposed by the British Consul and accepted by the Government of the Sandwich Islands;" and a similar application

has been made to France. This fact renders it highly improbable that you will obtain the assent of that Government to the terms of your project.

I am not disposed to deny or underrate the grievances complained of by the American citizens in their memorial which you have transmitted, and I sincerely desire that these may be speedily and permanently redressed. One great object of your mission is to maintain the rights and procure redress for the wrongs of American citizens in the Sandwich Islands. On the spot, you must be far better able to judge of the justice of these complaints than I am at this distance; and when satisfied that any of their rights have been violated, you always bear with you the authority of your Government in asking redress. Should this be refused or unnecessarily delayed, it is your duty to report the individual cases to your Government, with all the attendant circumstances, and suggest what further in your opinion ought to be done to accomplish the object.

These observations are intended to apply to all the complaints which Mr. Brown has transmitted. They are all committed to your charge. Under existing circumstances they can only be treated diplomatically. It is unfortunate that we cannot yet appeal to Treaty stipulations to protect the rights of our citizens, and that these are such only as are secured by the law of nations. The President, at the present moment, with the Mexican war on hand, cannot think of asking Congress for authority to coerce the Government of the Sandwich Islands to redress the alleged grievances of our citizens. If persuasion fails, the only alternative is force. By our able and energetic diplomacy, we have heretofore been successful in obtaining justice from nearly all nations; and the President hopes that the Sandwich Islands will not prove to be an exception. He relies upon your diplomacy to accomplish this object, and the distance is so great and the means of intercommunication so infrequent, that more must be left to your discretion than to that of diplomatic agents nearer to the United States.

At the first favorable moment, I shall examine all your despatches carefully; and, if need be, communicate further suggestions.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. TURRILL.¹

DEPARTMENT OF STATE,

WASHINGTON June 18th 1847.

JOEL TURRILL ESQRE.

Consul of the U. States,

Honolulu, Sandwich Islands.

SIR,

Mr. A. G. Abell's despatches dated 21st June & 1st July, 1846, not numbered, and his Nos. 12 & 13 have been received, & the Testimony accompanying the former in the case of the meeting on board of the Whale Ship "Meteor" has been sent to the Attorney of the U. States for the District of Connecticut, who has since informed the Department, that the Mutineers had arrived at New London, on board of the "Bengal," and that all necessary and proper steps have been taken for their detention and the investigation of the charges preferred against them.

Your despatch dated 20th June, 1846, announcing your arrival at Honolulu, and Nos. 1 to 6 inclusive, have also been received.

I have duly considered the case presented in No. 4, & the correspondence between yourself and the Commanding Officer of the English Frigate "Juno," respecting Edward Atkinson, a British subject, regularly shipped as a Seaman, on board the American Ship "Brookline," who deserted from that Vessel to the said Frigate, and approve of what you have done in the matter.

Your Nos. 1 & 5 have been referred to the 5th Auditor of the Treasury for his perusal; & he has since stated to this Department that your Account for Quarter ending 30th September last warrants the payment of the drafts predicated upon it, and that your subsequent Account ending 31st December last warrants the payment of your draft for \$1705—the only one as yet presented. These drafts have consequently been duly honored.

An extract from No. 5, suggesting that the Commanders of our Men of War in the Pacific be instructed, upon their return to the U. States, to take on board & bring home such sick & destitute American Seamen as may be on the hands of our Consuls, has been sent to the Secretary of the Navy & his attention invited to the subject.

¹ MSS. Department of State, Despatches to Consuls, XIII. 8.

The explanations given by you to justify the very large amount expended at your Consulate for the relief of distressed Seamen have received due consideration. It is true that causes beyond your control—such as the great number of Seamen arriving at the Sandwich Islands, and the infrequency of opportunities of sending them to the United States—constitute a sufficient reason why these expenditures should be large; but yet I am not satisfied that they are not extravagant. The amount disbursed for the relief of destitute Seamen at the Sandwich Islands in 1840 was \$3,686.14; in 1845, it had increased to \$23,936.43; & in 1846, it has suddenly mounted up to the sum of \$51,060.96. Thus in one year the amount has considerably more than doubled; and it is nearly fourteen times as great as it was in 1840. It may be added that the expenditure since you have been Consul, during the last half of the year 1846, has been greater by more than \$4,800 than it was during the first half of that year, when your predecessor Mr. Abell was in office.

The expenditure during the year 1846, after deducting the Extra Seamen's Wages received (\$8,435.78) amounts to \$42,625.18; whilst the whole annual appropriation for the relief of Seamen in foreign Countries for all our Consulates throughout the World is only \$75,000.

Complaints have already reached the Department on this subject; and no doubt it will be investigated at the next Session of Congress.

It is impossible for me at this distance and with my limited information to form any correct judgment as to the propriety of the different charges in your Accounts. This, however, I may say, that the charge for medicine & medical attendance appears to be exorbitant. During the last six months of the year this amounted to \$2,279, averaging more than \$12 per day; and more than \$24 for each of the Seamen under medical treatment.

I might also remark that \$3.50 per week for boarding, considering the great number in a single mess, appears to be extravagant.

The fund which Congress created by the Act of February 28th, 1803, to meet this expenditure, was the three months' wages which the Masters of Vessels are required to advance to Consuls upon the discharge of their Seamen in Foreign Ports. This was imperative in all cases until the passage of the Act of July 20th, 1840, which confers upon the Consul, on the application of the Master and the Seaman, the power to discharge Seamen, "if

he thinks it expedient," without this payment. I take the true construction of the Act to be that the Consul ought not in any case to discharge the Seaman without the payment of the three months' wages, unless a moral certainty exists that he will not become chargeable to the United States. Whilst it is the duty of the Government, in any event, to provide for the relief of our distressed Seamen in Foreign Countries and for their return home, it is not just that the United States should bear the expense of performing this duty, when it is imposed for the accommodation of the Owners & Masters of Vessels and to relieve them from the penalties of their Bonds. They are not to be permitted to cast upon the Consul in a foreign Country their disabled Seamen or those whom, for any other cause, it is no longer their interest to retain, without the advance of the three months' wages. This act must have been intended for such cases as the discharge of a Sailor from one Vessel and his immediate shipment on board of another, where no danger could exist that he would become chargeable to the Government. If the Consul be in doubt upon this question, the Act has enabled him to exact "such terms" from the Master of the Vessel "as will, in his judgment, save the United States from the liability to support such Mariner."

Two-thirds of the three months' Wages under the Act of 1803, are to be paid by the Consul to the Seaman "upon his engagement on board of any Vessel to return to the United States." Until his actual engagement on board such Vessel, the Consul is not to pay him the money. Should the Seaman in the mean time become chargeable, his expenses are to be deducted from these two months' wages, and the balance only if such should exist is to be paid over to him. This has been the settled construction both of the Treasury & State Department for many years.

In view of all the circumstances, you are instructed to add to your "quarterly statements of relief afforded to destitute American Seamen," a return of the amount of the three months' wages received in the discharge of each Seaman; and when any Seaman has been discharged without this payment, a brief note of the reason.

I cannot but remark that altho' complaints had been made, perhaps unjustly, against Mr. Abell for extravagance, yet the same individual, John Ladd, still furnishes boarding & clothing to all the Sailors in Honolulu, at former rates, and R. W. Wood,

who appears in the "Sandwich Islands News" to be a Grocery Merchant, still supplies the Medicine and attendance. This may be all right, but it would be satisfactory to have some explanation on the subject from yourself.

I would earnestly but respectfully urge upon you the strictest economy compatible with the comfort of the Seamen, and would warmly recommend your own personal supervision of these disbursements, trusting as little as possible to subordinates. These remarks are far from being intended as a prejudgment of the case; but the rapidly increasing expenditure is well calculated to excite observation.

I know that Seamen are often necessarily long detained at the Sandwich Islands, without an opportunity of sending them home. Some means must be adopted to remove this difficulty. I shall request the Secretary of the Navy to issue a general order that our public Vessels returning from those Seas to the United States shall call at the Sandwich Islands, whenever practicable, and convey home as many Seamen as they can accommodate.

I would thank you for any suggestions upon the subject of diminishing the expenses for the relief of distressed Seamen, at the Sandwich Islands, which may be dictated by your observation and experience.

I transmit herewith a Report from this Department to the House of Representatives at the last Session of Congress, upon our Consular System, which contains information that may be useful to you in the discharge of your duties.

I am, Sir, &c.

JAMES BUCHANAN.

FROM THE MEXICAN MINISTER OF FOREIGN RELATIONS.¹

[Translation.]

FEDERAL PALACE, June 22, 1847.

The undersigned, minister of internal and foreign relations, had the honor to receive your excellency's note dated 15th of April last, in which you declare that his excellency the President of the United States intends to despatch, as a commissioner to the headquarters of the army operating in Mexico, Nicholas P. Trist, Esq., the officer next in rank to your excellency, with full powers to conclude a definitive treaty of peace with the United Mexican

¹ H. Ex. Doc. 8, 30 Cong. 1 Sess. 40-41.

States; and the most excellent president *ad interim* of this republic, to whom the undersigned immediately made known the contents of your excellency's said official note, has determined that you should be informed, in reply, that the decision on the affair in question being reserved to the sovereign congress of the nation, your excellency's said note is transmitted by him to that body, in order that it may determine what should be deemed most proper on the subject. Its resolution shall be communicated in due time to your excellency, by the department under the charge of the undersigned, who leaves for that occasion the answer to the points embraced in your excellency's said note.

The undersigned avails himself of this opportunity to offer to your excellency the assurances of his distinguished consideration.

DOMINGO IBARRA.

TO HIS EXCELLENCY THE SECRETARY OF STATE
OF THE UNITED STATES OF AMERICA.

TO MR. MILLER.¹

Private.

WASHINGTON, 24th June, 1847.

MY DEAR SIR:

Colonel Piollet's appointment was announced in the "Union" of last evening: and I hope he is now entirely satisfied of my desire to further his wishes. For more than two years, upon all suitable occasions, I have been urging his claims.

I cannot but regret that Mr. Butler's appointment as Military Storekeeper "is the most obnoxious act to the Governor and his friends that you (I) could have done." I regret this chiefly because it proves that a spirit exists at Harrisburg averse to conciliation and well calculated to injure the Governor's prospects of success. I certainly had not supposed that Mr. Shunk cherished any such feelings; and I entertain no doubt, unless Butler should be driven by abuse from his purpose, that he will return to Pittsburg and exert himself in the good cause.

I have been and shall be the devoted friend of the Governor's election: but yet he must not expect me to abandon all my own friends, because they are "obnoxious" to him personally. Convince me that they are not Democrats, and then I would

¹ Buchanan Papers, Historical Society of Pennsylvania. Jesse Miller was a representative in Congress from Pennsylvania from 1836 to 1837; was appointed first auditor of the Treasury by President Jackson, holding the position till 1841; was canal commissioner in Pennsylvania from 1845 to 1846, and secretary of state of that commonwealth from 1846 to 1848, serving for a time as acting governor of the state.

not confer upon them any political office, however much I might be attached to them.

John B. Butler is an able man, and I believe an honest one. As temporary paymaster, he has performed his duties in a distinguished manner. He has obtained, and I have no doubt merited, the confidence and esteem of all his officers. Had it not been for my attachment and engagements to Piollet, I should have urged his appointment to the vacancy occasioned by General Hammond's death. John B. Butler has ever been, in all times of need, my energetic and efficient friend. *I know this.*

How ridiculous it would be for me to find fault with the Governor for having appointed a good and worthy man his Attorney General, merely because he was known to be both politically and personally hostile to myself—the latter to such an extent as to have broken up our social intercourse. When strong attempts have been made to convince me that this appointment manifested a hostile spirit on the part of the Governor towards myself, I have laughed them to scorn. The Governor ought not to desert his own friends, because they are my enemies. It is true I thought he had gone a little too far in formally proclaiming his neutrality between that "blathering" dastard Frazer and myself. He might have felt neutral: but I should rather he had not expressed his feelings. But no matter. Enough of this.

Tell Mrs. Miller I feel greatly indebted to her for her invitation; but would have been much more gratified, had it arrived in time to enable me to accept it.

I expect to leave here on Saturday at 12 o'clock for New York, from whence I shall proceed with the President on his tour through New England. I do not calculate to be absent more than ten days.

Please to present my kindest regards to the Colonel and Jane. May health and prosperity attend them through a long life! No person in the world wishes them better than I do.

With my kindest regards for Mrs. Miller and the family,
I remain sincerely and respectfully
Your friend

JAMES BUCHANAN.

HON. JESSE MILLER.

P. S. Poor Hammond died of an ossification of the heart.

TO MR. SHIELDS.¹

(No. 21.)

DEPARTMENT OF STATE,

WASHINGTON, 25th June, 1847.

To B. G. SHIELDS, ESQUIRE,
&c. &c. &c.

SIR:

Your despatches to No. 40, inclusive, have been received.

The President is gratified with the success of your efforts to adjust and obtain payment for the claims in the cases of the Josephine, the Native, and Commodore Danels. The money which you may receive in the first, you will hold subject to the order of the Insurance Company of the State of Pennsylvania. It is believed that Mr. Seth Driggs is the sole claimant in the case of the Native. If, therefore, you shall be satisfied that the documents on file in the Legation are sufficient to establish his right to the money, you may pay it to him.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. CARR.²

No. 8.

DEPARTMENT OF STATE,

WASHINGTON, 26th June, 1847.

THOMAS N. CARR, ESQRE.

United States Consul, Tangier.

SIR:—

Your despatch, No. 12, of the 5th ultimo, was received on the 19th Instant.

Your vigilance and energy in adopting measures to prevent the ports of Morocco from becoming asylums for so called Mexican Privateers, and their prizes, are highly approved.

From the course which the Spanish Government has pursued in regard to the "Unico" and her prize the "Carmelita," we have every reason to believe that it will do its duty in conformity with the Treaty of 1795, and the Law of Nations. The last despatch from Justus Pon, the American Consul at Barcelona, dated on the 21st ultimo, informs the Department that the

¹ MSS. Department of State, Instructions, Venezuela, I. 67.² MSS. Department of State, Instructions, Barbary States, XIV. 59.

master and crew of the "Carmelita" had been restored to their own vessel on the 8th ultimo, and have since remained there at perfect liberty; and that Judicial investigations were in progress against the Captain and crew of the "Unico," who had been placed in prison.

It is believed that before this can reach you there will have been a naval force, detached from the African Squadron, in the Mediterranean sufficient to protect American commerce: and the Steamers Princeton and Allegheny will, within a brief period, leave the United States for that station.

The postscript to your despatch has occasioned some apprehension. No civilized Government would suffer prizes captured by these Piratical Privateers to be condemned and sold within its ports. For this very reason, such prizes may have been carried to remote ports within the Empire of Morocco, and there sold without any form of lawful condemnation. The Ships seen at the port of Wedinoon, without officers or sailors on board, and the nation to which they belonged unknown, may, therefore, have been captured American vessels. Should this prove to be the case, the Government of the United States will hold that of Morocco responsible for every injury to the persons and property of our citizens, committed or tolerated within any of its ports, in violation of the established laws of civilized nations.

I shall await the arrival of your next despatch with considerable anxiety; and should occasion require, shall give you special instructions as to the manner in which you shall proceed in asking satisfaction and indemnity from the Emperor of Morocco.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. MANN.¹

DEPARTMENT OF STATE,

WASHINGTON, 26th June, 1847.

A. DUDLEY MANN, ESQRE.,
&c., &c., &c.

SIR:

The President deems it proper that you should again proceed to Germany for the purpose of completing the work which you have so auspiciously commenced in concluding the Hanoverian Treaty.

This Treaty was proclaimed by the President on the 24th day of April last, together with the Declaration of Accession to its terms by His Royal Highness the Grand Duke of Oldenburg. It was deemed important that the Grand Duchies of Mecklenburg-Schwerin and Mecklenburg-Strelitz should also accede to this Treaty. Accordingly, you were furnished with a Full Power from the President, on the 9th January last, to make the official exchange of Declarations necessary to constitute these two Duchies, or either of them, parties to it, under the authority contained in the 12th Article. This Full Power is yet unexecuted, and is still in force; and I need not enlarge to you, who are so well acquainted with the subject, upon the benefits which would result to the United States from the accomplishment of this object. It is hoped that ere this the temporary obstacles in the way to the accession of these Grand Duchies to the Treaty have been removed, and that you will not find any insuperable difficulties to the success of your mission. As soon as this accession shall take place, the Government of the United States will then have a right to interpose for the purpose of inducing Denmark to abolish or reduce the extravagant transit duties, now imposed upon our staple articles, in passing from Hamburg, through the Danish Duchy of Holstein, into the two Mecklenburgs; and you may give their Governments every assurance that our best efforts shall be exerted for this purpose.

You will, therefore, proceed to Schwerin and Strelitz, and, if practicable, obtain the accession of the two Grand Dukes to the Hanoverian Treaty, adopting the same form of Declaration which has already been employed in regard to the Grand Duke of Oldenburg.

¹ MSS. Department of State, Instructions to Diplomatic Agents, &c., 1.

It would be a matter of vast importance to the great interests of this country, if the Customs-Union of Germany would either consent to become a party to the Hanoverian Treaty, or conclude a Treaty with the United States upon similar terms. It has long been the anxious desire of Prussia to bring all the States of Northern Germany into this League. This object she can never accomplish, whilst our Treaty with Hanover and Oldenburg shall remain in force, unless by conforming in her commercial policy to the liberal terms of that Treaty. These two Powers have, greatly to their own advantage, abolished the restrictions which imposed fetters upon their trade; and the free Cities of Hamburg and Bremen will never consent to adopt the present restrictive policy of the Zoll-Verein, because this would ruin their commercial prosperity. It is hoped, therefore, that Prussia, perceiving this to be her political as well as her commercial interest, may ere long lead off in favor of a liberal and enlightened interchange of productions with the United States. That this would redound to the advantage not only of Prussia, but the other Zoll-Verein States, may be rendered manifest. Our late Tariff, by greatly reducing the import duties on the manufactures of these States, has opened the way for exchanging them for our staple productions,—such as raw cotton, Tobacco, rice, and whale-oil. The first, and, as yet, the only line of steamers which we have established, will run to Bremen and greatly facilitate our commercial intercourse with the North of Germany. Thus, whilst we have presented the strongest inducements to the States of the Zoll-Verein to engage in a mutual trade, which could not fail to be highly beneficial to both parties, the Zoll-Verein have done nothing to meet our advances. To illustrate this position, let me refer to the article of tobacco. Ever since 1835, the Government of the United States has been exerting its best efforts to obtain a reduction of the duties on this article in the States of the Zoll-Verein; but without the least success. The duty still remains the same. Whilst the duty on tobacco in Hanover, Oldenburg, and the two Mecklenburgs is but 70 cents per hundred pounds, in the States of the Zoll-Verein it still remains at \$3.33 per hundred. What has been the consequence?

The Coast States of Germany, containing a population of three millions and a quarter, consume, annually, about 11,000 Hogsheads of our Tobacco, whilst the States of the Zoll-Verein, containing a population of 28 millions consume but 29,000 Hogs-

heads. If the consumption in these States bore the same proportion to the population that it does in the Coast States, the quantity consumed would be ninety-five thousand, instead of twenty-nine thousand hogsheads. And why should not the consumption of our Tobacco in the Zoll-Verein be increased to this extent? The habits of the people are the same in both divisions, and the use of tobacco is as great per head in the one as in the other. The reason is, that the Zoll-Verein force the production of an inferior article, to which neither the soil nor the climate is well adapted, by a high protective duty, amounting, at present prices, to about 75 per cent. *ad valorem*; when the people of Germany might procure a much better and cheaper article from the United States in exchange for their manufactures. They would thus open an extensive and profitable market for those productions of skill and industry in which they excel. From information which we have received, they now begin to discover that grain would in their country be a more profitable crop; and that for the purpose of preventing famine, it would be wise to devote that land to the cultivation of good wheat, on which they now raise bad tobacco. Any deficiency in the revenue which the reduction of duties on our tobacco to the Hanoverian standard would occasion, might be supplied by increased duties on silks and other luxuries. Habit has made tobacco a necessary of life among the Germans.

The United States have never had a Diplomatic Agent in any of the Sovereign States of which the Zoll-Verein is composed; although an occasional mission to them would greatly promote our interests. Under these circumstances, the President has deemed it expedient that you should, either in going to, or returning from, the Mecklenburgs, pass a few days at the seats of Government of the more important States of the Zoll-Verein, such as Bavaria, Wurtemberg, Saxony, Baden, Hesse-Darmstadt, Nassau, Brunswick, Hesse-Cassel, and the free city of Frankfort-on-the-Main. Your extensive, as well as minute, knowledge of German affairs will enable you, in conversation with the authorities of these Countries, to explain and enforce the reasons why they should consent to accede to the terms of the Hanoverian Treaty. It is true that no one of these States possesses the power to do this for itself under the Zoll-Verein League; but yet they are the constituents of which this Body is composed, and by such explanations the way may be smoothed for the accomplishment of the great object. You will be accredited to each of them as a confidential agent for this purpose.

Whilst at Hanover, Oldenburg, and the two Mecklenburgs, you would render your country an essential service, if you could prevail on these Governments to admit Paddy, or rice in the husk, free of duty. Their Tariff on husked rice is only 70 cents per hundred pounds; but the planters of this country are less benefited by such a low duty than their formidable Dutch rivals. This duty favors the introduction of the Java rice, which, generally speaking, is an inferior article, and commands a much less price in the market. If, however, Paddy were admitted free, this would operate as a discrimination in favor of American rice; because the cost of transportation is more than double as great from Batavia to the ports of the North Sea and the Baltic, as from Charleston or Savannah. For this reason Dutch Paddy could not be advantageously exported. The revenue which Hanover and Oldenburg might lose by the change would probably be compensated by the employment thus afforded to their subjects in cleaning the article from the husk and preparing it for market.

This Department has been often called upon by one or the other Branch of Congress for information relative to emigration from Europe; and it is highly probable, from existing circumstances, that this subject will engage the attention of that Body at their next session. It has been alleged that some of the European authorities unscrupulously furnish facilities for convicts and persons discharged from Houses of Correction to reach our shores. Whilst poverty ought never to be interposed as a barrier against emigration to this land, which has ever been the asylum of the poor and oppressed foreigner, it may become necessary to protect ourselves against the importation of criminals from other countries.

You are instructed to ascertain, if possible, whether these statements be well founded, in regard to any of the German States which you may visit; and should you clearly ascertain that they are, you will remonstrate in strong but respectful terms against the practice of exporting their criminals to the United States.

Indeed, so confident am I that Congress will, at the next Session, call upon this Department for information on the subject of emigration, and so much do I desire to be able to furnish it in an authentic form, that I deem it proper to instruct you to visit Liverpool, Hull, Dublin, Cork, Belfast, Glasgow, Havre, Antwerp, Rotterdam, and Amsterdam, on your route to Germany,

and to report to the Department the rules and regulations observed concerning emigrants at each of these ports, as well as at the ports of Germany, together with all other facts and observations which you may deem important to be known by the Representatives of the people.

In order to promote your success and to expedite your movements, a general letter, addressed to our European Consuls, will be delivered to you, commanding the object of your mission, and asking them to afford you all the facilities in their power in obtaining the required information. From your familiarity with the question of emigration, and the rapid conveyances which you will meet at every point, it is hoped, that the performance of this duty will not require more than thirty days of your time.

You will correspond with this Department frequently and freely on the subjects connected with your Mission.

Your compensation, commencing with the date of this letter, will be at the rate of eight dollars per diem; in addition to which, your travelling and other necessary personal expenses whilst engaged in this service, will be allowed to you in the settlement of your account, on your return to this City. You will keep a minute account of your expenses, actually incurred, and take vouchers in all cases where this can be done with propriety.

A letter of Credit on the Messrs: Baring, Brothers & Co., Bankers of the United States at London, requesting them to honor your drafts to an amount not exceeding \$1500, is herewith enclosed.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. TRIST.¹

(No. 3.)

DEPARTMENT OF STATE,

WASHINGTON, 13th July, 1847.

SIR: A duplicate of your No. 4, dated 21st May, 1847, together with a copy of the first ten pages of your letter to General Scott of the 9th of May and of your letter to him of the

¹ MSS. Department of State, Instructions, Mexico, XVI. 65; S. Ex. Doc. 52, 30 Cong. 1 Sess. 90; S. Ex. Doc. 60, 30 Cong. 1 Sess. 52; H. Ex. Doc. 56, 30 Cong. 1 Sess. 17; H. Ex. Doc. 60, 30 Cong. 1 Sess. 827; H. Ex. Doc. 69, 30 Cong. 1 Sess. 52; S. Ex. Doc. 41, 32 Cong. 1 Sess. 5. The entire instruction appears in the printed documents, taking the extracts together.

20th of May, was received at the Department on the 28th ultimo. Your No. 6 of the 3d June, 1847, was also received on the 29th ultimo; but your No. 5 (if, indeed, there be such a number) has not yet come to hand. It is much to be regretted that you could not have found time to prepare and transmit copies of your letters to General Scott of the 9th and 20th May, with the original of your despatch No. 4. In that event they would have been received nearly a month earlier; and even now, we have only a part of your letter to him of the 9th May. General Scott's answer to these letters, dated at Puebla on the 29th May, has been received at the War Department, from which I have obtained a copy.

These documents have produced feelings of deep mortification and disappointment in the mind of the President. It is lamentable to reflect that the restoration of peace may have been defeated or delayed by a violent and embittered personal quarrel between two functionaries of the Government in the enemy's country and whilst the war is raging.

You do not seem sufficiently to have reflected that you were entrusted with no power whatever over the disposition of my communication of the 15th of April, last, to the Mexican Minister for Foreign Affairs, except that of a mere bearer of despatches. After it had reached the hands of General Scott, your agency in regard to it should have terminated and ought never to have been resumed. His refusal or omission to forward that communication to the place of its destination in obedience to the military order of the President through the Secretary of War, was a question in no manner connected with your mission. It was, therefore, with regret that the President discovered from your letter to the General of the 20th of May, that you had consented to take back this communication from his possession and to assume a discretion which had not been delegated in regard to the appropriate time for forwarding it to the Mexican Minister for Foreign Affairs. You say to the General that "so soon as I shall be enabled to ascertain that the condition of the Government of this country is such as to admit of its delivery, it will be again placed in the hands of the General in Chief of our forces for that purpose."

You have thus done much to relieve General Scott from the responsibility of disobeying the order communicated to him through the Secretary of War, and have, in effect, without any authority, undertaken to decide that it was not proper, under

existing circumstances, to transmit my letter to the Mexican Minister for Foreign Affairs. In this decision the President cannot concur. That letter was an answer to the letter of Mr. Monasterio to myself, dated on the 22nd February, last, and was required not only by courtesy but by the highest public considerations. Its immediate delivery to the Mexican Minister for Foreign Affairs could have done no possible harm and might have been productive of much positive good. Indeed, had it reached its destination soon after the victory of Cerro Gordo, from the state of public feeling then existing in the City of Mexico, it might and probably would have been productive of the happiest consequences. But whether or not, the time of its delivery was a question not left to your discretion.

The greatest pains were taken in framing your instructions to prevent all possible interference on your part with the appropriate military duties of General Scott. It was partly to convince him of this fact that you were authorized to exhibit these instructions to him together with the project of the Treaty. Your authority, so far as he was concerned, was limited to the single point of giving him notice that the contingency had occurred, to wit, the ratification of the Treaty by the Mexican Government, "on the happening of which, as provided by the third article, hostilities are required to be suspended." The ratification of such a Treaty by Mexico, according to the spirit of the Act of Congress of the 3d March, 1847, "making further appropriation to bring the existing war with Mexico to a speedy and honorable conclusion," was to be the signal for the termination of hostilities. As the negotiator of the Treaty, from his position, must necessarily be first informed of this event, he was required "without delay to communicate the fact to the commanders of our land and naval forces respectively." All the rest was left to the instructions issued by the Secretaries of War and of the Navy to our military and naval commanders. Up to this last moment, your duties were wholly unconnected with General Scott, and then they were limited to a mere official communication that the Mexican Government had concluded and ratified a Treaty of Peace with the United States.

Under these circumstances, it was with deep regret that the President learned from your letter to the General of the 20th May that you had undertaken in his name to become the medium of giving to that officer an order in advance, to be executed when you should think proper again to deliver into his hands my com-

munication to the Mexican Minister for Foreign Affairs: and to enforce obedience to this order, you declare that for this special purpose you stand in precisely the same relation to the President that one of his aides de camp bears to himself, when entrusted with a verbal order from him to his subordinate officer.

It is a most disagreeable task thus to criticise your conduct. General Scott, by his letter to you of the 7th May, last, had placed himself clearly in the wrong. Whether any pretext existed for writing such a letter,—justification he could have had none,—can only appear from your letter to him of the 6th May to which his was a response. It is therefore much to be regretted that you have kept no copy of this letter, which has now become so important: and the General has not furnished the War Department with a copy.

I purposely forbear to express any opinion of your reply to General Scott of the 9th May, until I shall have an entire copy of it before me: and his rejoinder to you of the 29th May I leave in the hands of the Secretary of War, to whom he is directly responsible.

Your mission was a mere precautionary measure. In the then existing relations between the two countries, the President could not have appointed public Commissioners to treat with Mexico, because it was morally certain they would not be received. At the same time it was foreseen that in the progress of our arms, a favorable juncture might occur for the conclusion of a Treaty, which, if not seized at the moment, might not again speedily return. The President would have been inexcusable had he not provided for such a contingency. For this purpose you were employed as a confidential agent to proceed to the Head Quarters of the army with the project of a Treaty already prepared: and in case the Mexican Government should refuse to conclude this Treaty, you were authorized to make the necessary preliminary arrangements for the meeting of Commissioners. It was almost essential to the success of your mission that you should cultivate a good understanding with the Commander in Chief of the army. It was, therefore, unfortunate that you had not in person delivered to him the despatches with which you were entrusted and at the same time made him fully acquainted with the character and objects of your mission, as well as with the nature of my communication to the Mexican Minister for Foreign Affairs. For these reasons, therefore, although the letter of General Scott was well calculated to irritate your feelings and

excite your indignation, you would have best performed your duty to your country had you stifled your resentment and entrusted your vindication to the Secretary of War, acting under the order of the President. Indeed, for this purpose the letter required no studied reply. It is on its face the hasty production of unfounded jealousy, which the author's own sober reflection, if left to itself, would most probably have corrected.

The President trusts that ere this, in obedience to my instructions of the 14th ultimo (of which I now transmit you a duplicate) you have called upon General Scott and communicated to him the instructions and projet of a Treaty with which you have been entrusted, and that even if friendly relations have not been restored, neither you nor he will suffer your personal feud to defeat or to delay the conclusion of a Treaty of Peace with Mexico.

According to the suggestion in your despatch No. 6, you are authorized to modify the boundary contained in your instructions so as to make it read "up the middle of the Rio Grande to the 32nd degree of North Latitude, thence due west to a point due south of the south western angle of New Mexico, thence due north to the said angle, thence northward along the western line of New Mexico," &c., &c., &c. This modification, which would embrace the Paso del Norte within the limits of the United States, is deemed important: still you are not to consider it as a sine qua non, nor suffer it to delay the conclusion of a Treaty.

I would suggest another and more important modification of the line; and this is to run it along the 32nd parallel of North Latitude from the Rio Grande to the middle of the Gulf of California and thence down the middle of the Gulf to the Pacific Ocean: or if this cannot be obtained, to run it due west from the southwest angle of New Mexico to the middle of the Gulf. Either of these lines would include within our limits the whole course of the Gila. From information derived from Major Emory, the valley of that river presents a favorable route for a railroad to the Pacific; but this would sometimes pass on the one side and sometimes on the other of the bed of the stream. For this reason it is deemed important that the whole valley of that river should be included within the boundary of the United States. You are therefore authorized and instructed to make the first, or if this cannot be obtained, the second modification above suggested in the line; but still with the understanding that neither of these two changes is to be considered as a sine qua non, nor is it to delay the conclusion of a Treaty.

In case lower California cannot be obtained, then the line might be run on the parallel of 32° or due West from the South West corner of New Mexico to the Pacific Ocean. If the latter line should be adopted, care must be taken that San Miguel shall be included within our limits.

Yours, very respectfully,

JAMES BUCHANAN.

To N. P. TRIST, ESQUIRE,
&c., &c., &c.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,
WASHINGTON, 16th July, 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have the honor of transmitting to you a copy of the explanation made by Commodore Sloat to the Secretary of the Navy, on the 2d ultimo, in answer to the charge of misconduct preferred against him by Mr. Gasquet, the Acting Consul of France at Monterey, and by Messrs. Cambuston and Olivier, French subjects, and which you communicated to the Department by your informal note of the 30th April last.

From the known prudence and discretion of the Commodore, I was persuaded at the time that these charges could not have been well-founded: and I think you will agree with me that so far as he is concerned, they have been entirely refuted. Commodore Stockton who succeeded him in the command of our naval forces may soon be expected in Washington. Upon his arrival, he will also be asked for explanations: and his answer shall be immediately communicated to you.

It is to be regretted that the Acting Consul of France so far forgot his duty and the relations of cordial amity existing between the two Governments as to have officially protested against Commodore Sloat for having taken possession of California in the exercise of the rights of war. This act, with the subsequent unfriendly conduct of Mr. Gasquet, was well calculated to induce French subjects in that remote region to believe that they would be acting in conformity with the wishes of their own

¹ MSS. Department of State, Notes to French Legation, VI. 102.

Government in taking part with the enemy. Such an impression may have given rise to the very exceptionable proceedings of Mr. Cambuston; and I am gratified that the manner in which he was treated by Commodore Sloat was so mild and forbearing.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,

WASHINGTON, 17th July, 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have had the honor of receiving your note of the 28th June, 1847.

From this, it appears that a deserter, by name Lormier, from the French ship the "Eagle," was employed as a seaman on board the ship "Mary Ann," of Philadelphia, Captain Lofland; and that he was entered on the muster roll of this vessel under the false name of William Lewis, born in Massachusetts, and was, under this denomination, provided with a letter of protection from the American authorities. It is to be regretted that your note does not state what officer of the United States is alleged to have given him this false letter of protection. If this had been stated, I could then have called upon him to answer for his conduct.

The Collectors of our ports are authorized to give seamen, "being citizens of the United States," a certificate of that fact; and this certificate is, I presume, what is meant in your note by a letter of protection. Now, I venture to hazard the assertion that no Collector of any port in the United States has given Lormier such a certificate. It is most probable that he has obtained the certificate from some American sailor named William Lewis, and has assumed his name for the purpose of screening himself from punishment as a deserter.

Your note, although it states the name of the French vessel from which Lormier deserted, does not mention where his

¹ MSS. Department of State, Notes to French Legation, VI. 104.

desertion took place. If this has been within any of the ports of the United States, the sixth article of our existing treaty with France affords a prompt and certain remedy for the recovery of the deserter.

I regret exceedingly that any American seamen (their names are not mentioned,) should have been guilty of the crime of abducting from their parents the two French youths named Maelter, the one eighteen, and the other sixteen years of age. But this crime was committed at Rochelle, within French jurisdiction, and is triable and punishable only under the laws of France. Neither the Federal nor the State Governments can try and punish crimes committed even by American citizens within the jurisdiction of a foreign country. The only remedy which it occurs to me is open to these parents for the recovery of their children is to come or send for them to the United States; and if any person should resist their authority, it is presumed that either a Federal or State Judge, upon a writ of habeas corpus, would direct them to be remanded to their custody.

I avail myself of this occasion to renew to you the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. TRIST.¹

(No. 4.)

DEPARTMENT OF STATE,

WASHINGTON, 19th July, 1847.

SIR: I enclose you a duplicate of my despatch No. 3, of the 13th instant.

The more I reflect upon the subject, the better am I convinced of the importance of running the boundary line between the Rio Grande and the Gulf of California along the thirty-second parallel of North Latitude. We cannot learn that the boundaries of New Mexico have ever been authoritatively and specifically determined; and difficulties might hereafter arise between the two Governments in ascertaining where the southwestern angle of New Mexico is situated. A conversation with Major Emory since the date of my last despatch, has convinced me still more of the importance of this modification.

¹ MSS. Department of State, Instructions, Mexico, XVI. 72; S. Ex. Doc. 52, 30 Cong. 1 Sess. 118-119.

You will, therefore, in the copy of the project of a Treaty which you are instructed to present to the Mexican Plenipotentiary, if this be not too late, substitute the following, instead of the 4th article.

ARTICLE IV.

The boundary line between the two Republics shall commence in the Gulf of Mexico three leagues from the land, opposite the mouth of the Rio Grande, from thence up the middle of that river to the thirty-second parallel of North latitude, from thence due west along this parallel of latitude to the middle of the Gulf of California, thence down the middle of the same to the Pacific ocean.

It is not intended that you shall make the parallel of 32° , instead of the River Gila, a sine qua non; but yet it is deemed of great importance that you should obtain this modification, if it be practicable.

If lower California cannot be obtained, then the line on the parallel of 32° might be extended to the Pacific ocean, taking care, in that event, to secure to our citizens, in accordance with your original instructions, "in all time to come, a free and uninterrupted access to and from the ocean through the Gulf of California from and to their possessions north of the said division line."

Major Emory, whilst in California, has accurately ascertained the latitude of two important points in that country. The latitude of the town of San Diego is $32^{\circ} 44' 59''$. The harbor is some miles south of the town. The latitude of the mouth of the Gila where it empties into the Colorado, is $32^{\circ} 43'$.

Your interesting and important despatch No. 7, of the 13th June, was received at the Department on the 15th instant. Although it had not been in the contemplation of the President to invoke the aid of the British Minister in Mexico for the purpose of forwarding my communication to the Mexican Minister for Foreign Affairs, yet the necessity of the case, under all the circumstances, constitutes a sufficient justification for your conduct. Indeed, it does not seem that you had any other mode of transmitting it after the refusal of General Scott to perform this duty in obedience to the order of the Secretary of War.

The Secretary of War received last night an extra from the "Republicano" of the date of 28th June, containing the letter of the Mexican Minister for Foreign Affairs to the Secretaries of the Congress, my letter to that Minister, and his answer.

Your despatch No. 5, if such an one existed, has not yet reached the Department.

Yours very respectfully,

JAMES BUCHANAN.

To N. P. TRIST, ESQUIRE,
&c. &c. &c.

TO THE CHEVALIER HÜLSEMANN.¹

DEPARTMENT OF STATE,

WASHINGTON, 19th July, 1847.

THE CHEVALIER HÜLSEMANN,
&c., &c., Austria.

SIR:

I have had the honor to receive your note of the 17th instant, transmitting the projet of a "Convention for the mutual abolition of the droit d'aubaine and taxes on emigration, and for the extension of Consular powers," which you propose to conclude in behalf of your Government with the United States.

This entire projet has been approved by the President, with the exception of that clause of the first Article, which, in the Hungarian Provinces, limits the abolition of the "droit d'aubaine, droit de retraite, and droit de détraction, or tax on emigration," to such taxes only as "belong to the Royal Treasury."

You inform me that there are certain Municipalities in these Provinces which exercise the droit d'aubaine and the right to levy such taxes; and with their privileges the Imperial Government would be unwilling to interfere. But the very object of the Convention is, to prohibit this unjust exercise of power in both countries; and if the privilege is to be reserved in the very places where it is certain to be exercised, this would destroy all equal reciprocity between the parties. Every one of our Treaties of a similar character has been reciprocal throughout the entire territories of each of the contracting Powers: and to exempt so important a portion of the Austrian Empire, as the Kingdom of Hungary, from the operation of the proposed Convention, would establish a new and inconvenient precedent in our policy.

The 11th Article of the existing Treaty of the 27th August, 1829, provides fully and satisfactorily, throughout all the States of both parties, for the abolition of the droit d'aubaine and all

¹ MSS. Department of State, Notes to German States, VI. 166.

discriminating taxes, so far as personal property is concerned. Although this Article is silent in regard to real estate or landed property, yet it is manifest that the same rule of justice ought to be applied to both kinds of property. Besides, the devise or descent of a real estate in Hungary to a citizen of the United States will probably be an event of rare occurrence.

The President, sincerely desirous to bind still closer the ties of friendship which now so happily unite the Austrian Empire with the United States, cherishes the hope that, under these circumstances, the Imperial Government will obtain the consent of the Hungarian Municipalities to the conclusion of the Convention without any reservation in their favor.

Regretting that you had not found it convenient to remain here another day, I transmit this note to New York, in accordance with your request, and am, Sir, with high consideration,

Yours, very respectfully,

JAMES BUCHANAN.

TO MISS LANE.¹

WASHINGTON, 19 July, 1847.

MY DEAR HARRIET/

The Secretary of the Treasury, with his Mother-in-law Mrs. Bache & Miss Bache, will leave here for Rockaway, to enjoy the benefit of sea bathing, on Thursday morning next. I know of no other opportunity of sending you & this will be an excellent one. It is impossible for me to accompany you myself. I hope that the good sister Cecilia may permit you to leave with them. You will lose but a few days by this arrangement. Your clothes, if they should not be ready, can be placed in order at Rockaway under the direction of Mrs. Bache. Besides, it is uncertain how long our friends the Pleasontons may remain at Oyster Bay & whether they will like it. Mr. Walker has hired a cottage at Rockaway and you may remain with his family as long as you please.

I am extremely anxious that this arrangement should be made; because I know of no other means by which you can reach the sea shore. If possible, please to send me an answer by the bearer.

Yours affectionately,

MISS HARRIET LANE.

JAMES BUCHANAN.

¹ Buchanan Papers, private collection; Curtis's Buchanan, I. 540.

TO MR. LISBOA.¹

DEPARTMENT OF STATE,
WASHINGTON, 20th July, 1847.

TO THE CHEVALIER GASPAR JOSÉ LISBOA,
&c. &c. &c.

SIR:

I have the honor to acknowledge the receipt of your note of yesterday, accompanied by a copy of an autograph letter from His Majesty the Emperor of Brazil to the President of the United States, in which your recall is announced, and requesting the appointment of a time for you to present the original to the President. In reply, I have the honor to inform you, that the President will receive you for that purpose on Thursday next, the 22nd instant, at 12 o'clock.

I avail myself of this occasion to offer to you renewed assurances of my very distinguished consideration.

JAMES BUCHANAN.

TO M. PAGEOT.²

DEPARTMENT OF STATE,
WASHINGTON, 21st July, 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have had the honor to receive your note of the 28th June, communicating the correspondence which took place in the month of November last between Lieutenant Colonel Frémont, Military Commandant of the Territory of California, and Mr. Moerenhout, the Consul of France in Monterey; and, also, the protest of Mr. Théophile Dague, a French subject, the clerk of Mr. Panaud, complaining of grievous injuries inflicted upon him by certain American officers and soldiers. These papers have been submitted to the President, who has directed the Secretaries of War and of the Navy to institute, without delay, a rigid examination into the conduct of Colonel Frémont and the other American officers and soldiers implicated.

You have done the Government of the United States no more

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 39.

² MSS. Department of State, Notes to French Legation, VI. 105.

than justice in assuring the French Minister of Foreign Affairs, upon my authority, that the American Government would not tolerate, on the part of its agents, any act calculated to afford just cause of complaint to foreigners inhabiting the countries which the fortune of war might place in its possession. The President's conduct will be in strict conformity with this determination: and when it shall appear that such acts have been committed, he will not fail to cause the proper reparation to be made.

No report has yet been received from Colonel Frémont on the subject of the complaints to which you have referred. In the absence of such a report, it is deemed but justice to that officer to hear what he has to allege in his own vindication, before any final decision of the question.

The President has observed, with pain and regret, that a state of feeling has arisen between some of the American authorities and the subjects of France in California not at all in accordance with the friendly relations existing between the two Governments. This doubtless had its origin in the protest of Mr. Gasquet, the Acting Consul of France, against Commodore Sloat, for exercising the rights of a belligerent in taking possession of California. But, whatever may have been the cause of this unnatural state of feeling, the President has determined that, so far as depends upon him, it shall no longer exist. He has accordingly directed orders to be issued to our military and naval Commanders to pursue a kind and conciliatory course in their intercourse with the French Consul and other French subjects in California; to secure and protect them in all their just rights; and, generally, to act towards them in such a manner as will manifest the desire which he entertains to cultivate the most amicable relations with a nation to which we are bound by so many strong ties of friendship.

Allow me to renew to you the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. McCUALEY.¹

No. 15.

DEPARTMENT OF STATE,

WASHINGTON, 22nd July, 1847.

D. SMITH McCUALEY, ESQRE.,
United States Consul, Tripoli.

SIR:

Your despatches to No. 76 inclusive, have been received.

The President, to whom I have submitted your last letter, dated the 27th of May, asking permission to return to the United States, after an absence of nearly 17 years, for the purpose of attending to your private affairs, cheerfully grants your request; and I have the honor to inform you, that you will be at liberty, upon receipt of this letter, to leave your post for this purpose, for the space of six months. You will take care to place the Consulate under the charge of some trustworthy person, during the period of your absence,—for whose official acts you will be held responsible.

I take this occasion to transmit a copy of a memorial to this Department, signed by Elia Fargion, and dated at Leghorn on the 1st ultimo, complaining that you have taken under your protection a Tripolitan Jew, named Meir Halfon, who, thus sheltered, has refused to pay his honest debt, whereby, as is alleged, the memorialist has suffered considerable losses.

In bringing this subject to your attention, the Department does not suppose that you have knowingly extended the Consular protection to a person who is availing himself of it to commit a fraud upon his creditors. You are desired, however, previous to your departure, to look into the matter, and to address a letter to the complainant, making such explanations as, it is presumed, you can easily do, and satisfying his mind either that no undue protection has been afforded to Halfon, or that it has been withdrawn. You will also acquaint this Department with the facts of the case, and the steps taken by you in regard to it.

This, and future despatches for Tripoli, will be forwarded according to the directions you have given.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Barbary States, XIV. 61.

TO MR. CRAMPTON.¹

DEPARTMENT OF STATE,

WASHINGTON, 24th July, 1847.

JOHN F. CRAMPTON, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 22d instant, enclosing the copy of a despatch in which you are instructed by Her Majesty's Principal Secretary of State to convey to the United States Government the acknowledgments of Her Majesty's Government for the kind and considerate manner in which Captain Montgomery, of the United States Frigate "Portsmouth," has conducted himself towards British subjects whilst he has been employed in blockading the port of Mazatlan.

I have already communicated a copy of your note and its enclosure to the Navy Department, in order that Captain Montgomery may be informed of the favorable opinion of him expressed by Her Majesty's Government. This will doubtless prove highly satisfactory to that gallant officer.

Be pleased, Sir, to accept the assurance of my distinguished consideration.

JAMES BUCHANAN.

TO MR. BANCROFT.²

(No. 15.)

DEPARTMENT OF STATE,

WASHINGTON, 27th July, 1847.

GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

Your despatches numbered 28 and 31 have been received in relation to the conduct of the British Post Office, in charging the same postage on letters carried by our steamer, the Washington, to Southampton, at the expense of the United States, as though they had been carried there by a British steamer, at the expense of the British Government. Your able and energetic efforts to convince that Government of the injustice and inequality of the

¹ MSS. Department of State, Notes to Great Britain, VII. 163.² MSS. Department of State, Instructions, Great Britain, XV. 347.

measure, and to induce them to abandon it, are highly approved by the President. You will not cease to exert yourself in the cause until the object shall be accomplished. Should you fail, this Government must, in self-defence, promptly resort to retaliatory measures. We can never consent to yield to the British steamers a monopoly of the business and profits of carrying the mail between the two countries. This we should do by patiently submitting to their existing postal charges. Equal and fair reciprocity is all that we desire; and this we must and shall obtain. We have the means of securing justice within our own power.

I herewith transmit to you a letter which the Postmaster General has this day addressed to me, together with a notice from him to the Postmaster General of Great Britain. These documents will sufficiently explain themselves. I need scarcely request you to use the same diligence in accomplishing the objects presented by this letter, as though you had received instructions for that purpose directly from the Department, and to afford Major Hobbie all the aid in your power in concluding postal arrangements with the appropriate branch of the British Government. Should the Major leave London without being successful, you will then act upon his instructions from the Postmaster General, of which I send you a copy, in the same manner as if they had been directed to yourself by this Department.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.¹

DEPARTMENT OF STATE,

WASHINGTON, 27th July, 1847.

DON A. CALDERON DE LA BARCA,
&c., &c., &c.

SIR:

I have hitherto purposely refrained from answering your note of the 22nd February last, in relation to the claim of the Duke of Sotomayor for 20,000 acres of land, situated between the Perdido and Iberville, and within the territory which the Government of the United States have, ever since the acquisition of Louisiana from France, claimed to be a portion of that Prov-

¹ MSS. Department of State, Notes to Spanish Legation, VI. 155.

ince. This delay has been occasioned by my reluctance to give your note an unfavorable answer, whilst any hope remained that Congress, to which the question properly belongs, might make provision for this, and other claims of a similar character. I am induced to depart from this purpose only by your reiterated requests to obtain an answer.

You state, doubtless upon good authority, that the original grant of these lands was made by the Intendent Morales to Messrs: Beverly Chew and Richard Relf, on the 24th March, 1804; that the same were conveyed by them to Mr. Daniel Clark on the 14th January, 1805, who, on the 7th February, 1805, conveyed their title to the Marquis de Casa Yrujo, from whom it descended to his son, the Duke of Sotomayor.

This claim involves the ancient question which has so often been ably and elaborately discussed between the two Governments; whether the territory between the Perdido and the Iberville was or was not embraced in the cession of Louisiana by Spain to France in 1800, under the Treaty of St. Ildefonso, and, consequently, in the cession of that Province by France to the United States under the Treaty of the 30th April, 1803. It would be vain to repeat, on the present occasion, the arguments which have been so often urged on the American side of the question; especially to a gentleman so familiar with them as is Mr. Calderon. Suffice it to say, that the Government of the United States, ever since the acquisition of Louisiana, in its Legislative, Executive, and Judicial Departments, has always held in theory, and by repeated Acts of Congress and Judicial decisions asserted in practice, that the territory between the Perdido and the Iberville rightfully constituted a portion of the Province of Louisiana, as ceded by France to the United States on the 30th of April, 1803; and that the Treaty between His Catholic Majesty and the United States, of the 22nd February, 1819, has, in no respect whatever, strengthened the claims of Spanish grantees to lands embraced within these limits. This being the fact, it therefore follows, as a necessary consequence, that the grant by the Spanish Intendent Morales of land within this territory, on the 24th March, 1804, having been made after the date of the Louisiana Treaty, was without authority, and is void.

Mr. Calderon states, that the venerable and illustrious jurists Marshall and Story decided virtually in favor of the claim of the Duke of Sotomayor, in the case of Foster & Elam v. Neilson, (Peters' Reports, Vol: 2nd, page 255). "The only objection

was, that the Spanish text of the Treaty of 1819 adopted the future tense, and runs '*shall be*' instead of '*are*;' whence it was inferred by some of the other Judges, that it *promised to confirm and did not actually confirm* the sale of these lands."

Mr. Calderon is mistaken in supposing that the Court were divided on this point; but whether or not, they afterwards became convinced that their first construction of the Treaty was incorrect, and with the magnanimity which belongs to great minds, they have retracted their error. In the case of the United States v. Percherman, (7 Peters, 51), they have decided the true construction of the 8th Article to be as though the English copy read, " shall remain ratified and confirmed," instead of " shall be ratified and confirmed." This change of opinion resulted from a more strict examination of the Spanish text of the Treaty. Perfect or unconditional Spanish grants do not therefore require any action of Congress to render them valid.

But the question still remains—admitting this to be, as it undoubtedly is, the true construction—does the 8th Article of the Treaty embrace grants of land made by the Crown of Spain within the territory between the Perdido and the Iberville? That it does not, was expressly decided by the Court in the very case of Foster & Elam v. Neilson,—to which Mr. Calderon has referred; and this decision has been confirmed by several subsequent cases, especially that of Garcia & Lee, decided at January Term 1838, (12 Peters, 511). Chief Justice Taney, in delivering the opinion of the Court in that case, whilst commenting upon the case of Foster & Elam v. Neilson, says: "It decides that the territory in which this land was situated belonged to the United States at the time that this grant was made by the Spanish authority; it decides that this grant is not embraced by the eighth Article of the Treaty which ceded the Floridas to the United States; that the stipulations in that Article are confined to the territory which belonged to Spain at the time of the cession, according to the American construction of the Treaty; and that the exception of the three grants made in the ratification of this Treaty, by the King of Spain, cannot enlarge the meaning of the words used in the eighth Article; and cannot," in the language of the Court, "extend them to embrace grants not otherwise intended to be confirmed;" or grants "which it, (the American Government), had proclaimed to be void, as being for lands within the American territory. These principles, thus settled by this Court, cover the whole ground now in controversy." These principles are

the settled law of the land; and the rights of many individuals to private property depend upon their maintenance. The President of the United States has no power to disturb them. They stand upon the firm basis of our Constitution and laws. Even if it were possible for him to believe that all which has been done in relation to this question by the Legislative, Executive, and Judicial authorities of this country, for the last forty years, is founded in error and mistake, he would have no power whatever to grant relief to the Duke of Sotomayor. Mr. Calderon is, therefore, mistaken in supposing "that the only mode by which he (the Duke) can be enabled to occupy or to alienate his lands, is to be found in the withdrawal of the opposition made thereto by the Executive power of the United States."

Whilst, as Secretary of State, it is my duty to give this answer to Mr. Calderon, I express no opinion of the question as to whether the Duke of Sotomayor and others in the same situation have or have not claims on the equity of Congress. Their case was ably presented in quite as strong a light as the facts would justify, by my distinguished predecessor, Mr. Livingston, in his report to the House of Representatives, on the 12th June, 1832, in obedience to a Resolution of that Body. The subject has since more than once engaged the attention of the one or the other branch of Congress; and it is to that Body alone that the Duke of Sotomayor can appeal with any hope of success. They may, if they should think proper, in accordance with the Bill which accompanied Mr. Livingston's Report, give to the Duke and the other claimants under the Spanish Crown all the lands embraced in their grants, except such as have been alienated by the United States; and for these they may allow the claimants an equal number of acres of other vacant lands belonging to the Government. But this is a question which belongs exclusively to Congress, and in which the President cannot interfere.

I avail myself of this occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO THE SARDINIAN MINISTER OF FOREIGN AFFAIRS.¹

[August 3, 1847.]

To His Excellency,

THE MINISTER OF FOREIGN AFFAIRS OF SARDINIA.

SIR:

I have received Your Excellency's note of the 5th of May last, presenting a detailed statement of the very improper conduct of Henry S. Eytinge, Master and owner of the Barque Ganges, towards Messrs: Embil & Co., Merchants at Havana, who had shipped on board his vessel certain goods consigned to Charles Grendy, of Genoa. If the information on which your statement is founded be correct, then Captain Eytinge has acted a fraudulent and a criminal part, and ought not only to be compelled to make restitution to the injured party, but ought, also, to be punished. It is proper for me, however, to say, that I have never received from the United States Consul at Oporto his report of the case, dated on the 16th of July, 1846, to which you refer; though, from a despatch of that officer, dated on the 19th of September, it is evident that he had believed Captain Eytinge to be the owner of the merchandize with which his vessel was freighted, until after his departure for Lisbon.

After stating the case, Your Excellency proceeds to declare, you "have no doubt that the Government of the United States, on receiving information of the fraudulent and criminal conduct of Captain Eytinge in this affair, will, for the sake of justice and the honor of its flag, as well as in behalf of the honest merchants whom this individual has unworthily deceived, have taken all the measures required to insure the punishment of this crime, as well as reparation for the losses he has occasioned, and restitution of the sums which he has carried off," &c., &c.

Your Excellency is, doubtless, aware, that the Government of the United States consists of three separate branches,—the Legislative, the Executive, and the Judicial,—and neither of these can, under the Federal Constitution, interfere with the appropriate functions of the other. The present case, from its nature, belongs exclusively to the Judiciary; which, upon the exhibition of proper proof, will award a just indemnity to the injured party.

Our Courts of Justice are always open for the redress of

¹ MSS. Department of State, Credences, III. 211.

injuries; and the Judges are so pure, enlightened, and independent, that I have never even heard a complaint against them in regard to the administration of justice between individuals. Messrs: Embil & Co. may proceed against Captain Eytinge on his Charter Party and Bill of Lading; and, if they substantiate their case by proof, they will, doubtless, recover an ample indemnity. It would be quite out of the question, however, for the Executive Branch of this Government to undertake, in their behalf, to prosecute the action before the Judiciary, against Captain Eytinge. This they must do for themselves.

In regard to criminal prosecutions the case is somewhat different. An officer, called the District Attorney, is appointed by the Government, in each of our Judicial Districts, whose duty it is, on behalf of the United States, to prosecute all offenders against the criminal laws of the country. Should, therefore, Messrs: Embil & Co., or the Underwriters, determine to proceed against Captain Eytinge, criminally, with a view to his punishment, they may appeal for advice and assistance to the proper District Attorney, who will institute and conduct the prosecution against him in the name of the United States.

I have deemed it necessary to make these explanations, in order to convince Your Excellency that the President would omit nothing in his power to accomplish the wishes of the Sardinian Government; with which it is his sincere desire always to cherish the most friendly relations.

I need scarcely add, that, should either a civil suit or a criminal prosecution be instituted against Captain Eytinge, I shall cheerfully furnish the parties all the information in possession of the State Department.

I avail myself of this occasion to offer to Your Excellency, the assurance of my high consideration.

JAMES BUCHANAN.

DEPARTMENT OF STATE,
WASHINGTON, 3rd August, 1847.

TO MR. DONELSON.¹

(No. II.)

DEPARTMENT OF STATE,

WASHINGTON, 7th August, 1847.

ANDREW J. DONELSON, ESQRE.,
&c., &c., Berlin.

SIR:

Your despatch, No. 32, of the 12th July, was received at this Department on the 4th instant.

In your private letter of the 24th June, you inform me that you had prepared a communication which would be delivered in a few days to Baron Canitz, "proposing as the basis of a new commercial arrangement reduction of the duties now levied by the Zoll-Verein on our leading exports, tobacco, rice, lard, oil, salted provisions, cheese, &c., &c.; supposing as I (you) do, from your (my) last despatch, that it will be now possible to obtain the consent of the Senate to a Treaty making some changes in our tariff for important concessions of this character."

In your No. 32, you state that, in return for the reduction of duties on our imports into the States of the Zoll-Verein, which you there enumerate, you would feel disposed "to reduce a good deal the duties which we now impose on the linen, silks, and other manufactures of the Zoll-Verein, that are not in competition with our home industry."

From your letter of the 24th June, I had confidently expected that your last despatch would have been accompanied by a copy of your communication to Baron Canitz; and it was this expectation alone which prevented me from answering that letter by the last Steamer.

I have examined with care my despatch to you of the 13th May last, from which you have inferred "that it will now be possible to obtain the consent of the Senate to a Treaty making some changes in our tariff, for important concessions" from the Zoll-Verein; and I confess I can not discover from what portion of it you could have drawn such an inference. Among other documents transmitted with that despatch, (all for the purpose of presenting to you the views of the President in regard to commercial Treaties), was a copy of the instructions under which Mr. Mann negotiated our late Treaty with Han-

¹ MSS. Department of State, Instructions, XIV. 116.

over. You will there find a notice of the reasons why he was not authorized to enter into any stipulation for the reduction of duties on Hanoverian imports below the standard of our present tariff. Advantageous as is that Treaty to the United States, it would not have been concluded had Hanover insisted on any such reduction. On this subject, the views of the President remain unchanged. Indeed, they have acquired additional force by the conclusion of this Treaty because, if we were now to enter into such stipulations with the Zoll-Verein, as you propose, we should be bound in honor to make a retrograde movement, and extend the privileges to Hanover productions.

The more I reflect upon the subject, the better am I convinced, that the Executive Branch of the Government ought not to attempt to change by Treaty the rate of duties which has been adopted by Congress in our late Tariff;—certainly not unless it should first be ascertained, to a moral certainty, that such a change would meet the approbation of the Senate, as well as of the Legislative power. Such a result I could not anticipate. Considering, therefore, that the rejection, by the Senate, of Mr. Wheaton's Treaty with the Zoll-Verein excited much feeling in Prussia, it might seriously embarrass our relations with that power, should a new Treaty of a similar character share the same fate.

The commercial policy which the President desires to pursue is recorded in our Treaty with Hanover. He believes that the interest of the Zoll-Verein and the cherished policy of Prussia to bring the other States and Cities of Northern Germany into this League, will eventually accomplish the object which he has in view. Mr. Mann has recently been again despatched to Germany to obtain the accession of the two Mecklenburgs to the Hanoverian Treaty. He has, also, been instructed to take some of the more important States of the Zoll-Verein with the exception of Prussia, on his way; and endeavor to convince their Governments of the expediency of concluding a Treaty with the United States upon terms similar to our Treaty with Hanover. We are not without hopes that this mission may prove successful, at least in regard to some of these States; and that their influence, as constituents, may be thus brought to bear upon Prussia and the general council of the League. But such terms can never be obtained, whilst the States of the Zoll-Verein have reason to hope that they can conclude a Treaty with the United States, under

which their productions will be subjected in our ports to a lower rate of duty than Hanoverian productions.

Besides, Prussia is anxious to build up a commercial marine; and can any thing contribute more effectually to the accomplishment of this object than for the United States to continue to throw open all their numerous ports, both on the Atlantic and the Pacific, to Prussian vessels bearing hither the productions of all foreign countries upon the same terms with American vessels? It will not be pretended that a similar privilege extended to our vessels in the few and comparatively insignificant ports of Prussia is any equivalent for these advantages conferred upon Prussian navigation.

The Prussian Government ought, also, to consider that, since the date of Mr. Wheaton's Treaty, we have reduced our Tariff to the Revenue standard. We have, therefore, in advance, freely conceded to the productions of the Zoll-Verein advantages which they did not enjoy at that period; and we are ever willing to do all in our power, consistently with the duty which we owe to ourselves, to increase our trade with the States of Germany.

Yours, very respectfully,

JAMES BUCHANAN.

TO MR. RUSH.¹

(No. 7.)

DEPARTMENT OF STATE,

WASHINGTON, 24th Augt., 1847.

RICHARD RUSH, ESQRE.,

&c., &c., &c.

SIR:

I herewith transmit to you a copy of a letter just received from the Postmaster General, on the subject of postal arrangements for the interchange of mails between the United States and foreign Governments, but more particularly with the Government of France. From this it will be seen that the Postmaster General is desirous that you should coöperate with Major Hobbie, the First Assistant Postmaster General, who has been despatched to Europe, as a Special Agent of the Post Office Department, with instructions to make the most liberal propositions for an exchange of mails with the French Post Office. I have, there-

¹ MSS. Department of State, Instructions, France, XV. 58.

fore, to request that you will extend to Major Hobbie every facility in your power to enable him to conclude a satisfactory postal arrangement with the appropriate branch of the French Government.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO CHARLES KESSLER ET AL.¹

WASHINGTON 25 August 1847.

GENTLEMEN/

I have been honored by the receipt of your kind invitation to unite with the Democracy of Old Berks in their Harvest Home celebration to be held at Reading on Saturday the 28th Instant. I should esteem it both a pleasure & a privilege to be present on that interesting occasion; & it is therefore with regret I have to inform you that my public duties during the present week will render this impossible.

I rejoice to observe that the glorious Democracy of "Old Berks" are buckling on their armor & preparing for the approaching contest. It is long since any State election has involved such important consequences for the Democracy of the Union as the approaching election for Governor of Pennsylvania. On its result may probably depend the ascendancy of the Democracy of the Union for years to come. Hence our Democratic brethren of other States are witnessing the contest with intense anxiety. The field is a fair one, our candidate well tried, able, & honest, & he has been regularly nominated by the party. Should he be defeated, the attempt will be vain to explain the decision of the ballot boxes in any other manner than by admitting that the Whigs have the Majority. Our candidate for Canal Commissioner is, also, above all reproach both personally & politically, & is eminently qualified for the duties of that important office. If under such circumstances the Democratic Keystone should give way, there is great danger that the arch may tumble into pieces. In this contest, emphatically, he that is not for us is against us. I do not apprehend defeat unless our wily foe should first lull us into security by making no extraordinary public

¹ Buchanan Papers, Historical Society of Pennsylvania. This letter was published in the *Pennsylvanian*, Monday, August 30, 1847.

efforts; & then, at the eleventh hour, quietly steal a march upon us, as they have done in some other States. Our vigilance ought to be constantly on the alert until the moment of victory.

The question of slavery, in one of its ancient aspects, has been recently revived & threatens to convulse the Country. The Democratic party of the Union ought to prepare themselves in time for the approaching storm. Their best security in the hour of danger is to cling fast to their time-honored principles. A sacred regard for the Federal Constitution & for the reserved rights of the States is the immovable basis on which the party can alone safely rest. This has saved us from the inroads of abolition. Northern Democrats are not expected to approve slavery in the abstract; but they owe it to themselves, as they value the Union & all the political blessings which bountifully flow from it, to abide by the compromise of the Constitution & leave the question, where that instrument has left it, to the States wherein slavery exists. Our fathers have made this agreement with their brethren of the South: & it is not for the descendants of either party in the present generation to cancel this solemn compact. The abolitionists, by their efforts to annul it, have arrested the natural progress of emancipation & done great injury to the Slaves themselves.

After Louisiana was acquired from France by Mr. Jefferson, and when the State of Missouri which constituted a part of it was about to be admitted into the Union, the Missouri question arose & in its progress threatened the dissolution of the Union. This was settled by the men of the last generation, as other important & dangerous questions have been settled, in a spirit of mutual concession. Under the Missouri Compromise, slavery was "forever prohibited," north of the parallel of $36^{\circ} 30'$; and south of this parallel, the question was left to be decided by the people. Congress, in the admission of Texas, following in the footsteps of their predecessors, adopted the same rule; and, in my opinion, the harmony of the States & even the security of the Union itself require that the line of the Missouri Compromise should be extended to any new territory which we may acquire from Mexico.

I should entertain the same opinion even if it were certain that this would become a serious practical question; but that it never can be thus considered must be evident to all who have attentively examined the subject.

Neither the soil, the climate, nor the productions of that portion of California south of $36^{\circ} 30'$, nor indeed of any

portion of it North or South, is adapted to slave labor: and, besides, every facility would be there afforded to the slave to escape from his master. Such property would be utterly insecure in any part of California. It is morally impossible, therefore, that a majority of the emigrants to that portion of the territory South of $36^{\circ} 30'$, which will be chiefly composed of our fellow citizens from the Eastern, Middle & Western States, will ever re-establish slavery within its limits. In regard to New Mexico, East of the Rio Grande, the question has been already settled by the admission of Texas into the Union.

Should we acquire territory beyond the Rio Grande & East of the Rocky Mountains, it is still more improbable that a majority of the people of that region would consent to re-establish slavery. They are themselves, in a large proportion, a colored population; and among them the negro does not socially belong to a degraded race.

The question is, therefore, not one of practical importance. Its agitation, however honestly intended, can produce no effect but to alienate the people of different portions of the Union from each other; to excite sectional divisions & jealousies; and to distract & possibly destroy the Democratic party, on the ascendancy of whose principles & measures depends, as I firmly believe, the success of our grand experiment of Self Government.

Such have been my individual opinions, openly & freely expressed, ever since the commencement of the present unfortunate agitation: and of all places in the world, I prefer to put them on record before the incorruptible Democracy of Old Berks. I, therefore, beg leave to offer you the following sentiment:

The Missouri Compromise. Its adoption in 1820 saved the Union from threatened convulsion. Its extension in 1848 to any New Territory which we may acquire will secure the like happy result.

Yours very respectfully

JAMES BUCHANAN.

CHARLES KESSLER ESQUIRE President &
GEORGE F. SPAYD & JACOB L. LIVERGOOD ESQUIRES
Secretaries &c. &c.

TO MR. LEAL.¹

DEPARTMENT OF STATE,

WASHINGTON, 30th August, 1847.

SIR: I have received a copy of the instructions from His Excellency Mr. Souza e Oliveira, the Brazilian Minister for Foreign Affairs, to yourself, dated on the 31st May, last, which you were kind enough to deliver to Mr. Derrick, then Acting Secretary of State, on the 5th instant, during my absence from this City. Since my return, I have examined these instructions with all the care and attention to which they were entitled, considering the importance of the subject and the high source from which they have emanated, and shall now proceed to communicate to you the result of my deliberations.

The instructions direct you to insist

1. Upon "ample reparation" from the Government of the United States for the acts committed by Lieutenant Davis at Rio de Janeiro on the 31st October, last.

And 2nd. These instructions direct you to require from this Government "a categorical declaration that it had disapproved the conduct of its Envoy Extraordinary and Minister Plenipotentiary at this (the Brazilian) Court, Mr. Henry A. Wise; and that it ordered his recall, as a mark of reparation due to Brazil."

3. You are also instructed to inform me, "Should Mr. Tod have departed from the United States before you have received these instructions (which has proved to be the case) the Imperial Government is resolved not to receive him in his official character until he has agreed to give the satisfaction in the sense and terms in which you are charged to exact it."

The Minister for Foreign Affairs in his instructions has gone into an elaborate exposition of the facts upon which these demands upon the Government of the United States are founded. If it should appear that in his exposition he has mistaken the true state of these facts, then it is confidently expected that the Brazilian Government will rest satisfied with the honorable adjustment of the controversy respecting Lieutenant Davis which was made by their Minister Mr. Lisboa and myself, and will suffer the whole affair to pass into oblivion.

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 40; S. Ex. Doc. 35, 30 Cong. 1 Sess. 28-41. Mr. Leal acted as chargé d'affaires ad interim of Brazil from July 22, 1847, to March 9, 1849.

In order to confine the discussion to the true points of difference between the parties, it is necessary to undeceive the Imperial Government in regard to two essential misapprehensions:

1. The declaration made by Mr. Lisboa in his note dated on the 21st January, last, was not equivalent, as His Excellency supposes, "to a renunciation of the right of the authorities of Brazil" to try and punish "crimes and infractions of their police regulations" committed within its territory by the sailors, citizens, or subjects of any nation. That note contains no expression from which such an inference can be drawn. The Government of the United States never has denied or disputed this sovereign right of Brazil. On the contrary, its existence was cheerfully acknowledged by me in the conferences with Mr. Lisboa which preceded his note.

It is true that Mr. Wise, in his correspondence with Baron Cayru, did not at first admit, in its just extent, this established principle of public law; but in his last note to that gentleman of the 10th November, he has recognised it in the clearest and most explicit manner. In it he declares "that in respect to the man who drew his knife on his fellow sailor whilst on shore, he (Mr. Wise) admits to the fullest extent the jurisdiction of Brazil."

The question is therefore at once relieved from the misapprehension which pervades a great part of the instructions to you, that this Government has denied to that of Brazil the sovereign jurisdiction over all persons of whatever nation within its territory.

2. The Minister for Foreign Affairs has also mistaken the nature of the settlement between Mr. Lisboa and myself in another particular. This is confined, in express terms, to the case of Lieutenant Davis and the three American sailors. Neither in substance nor form does it go beyond the unfortunate occurrences of the 31st of October, 1846. It does not embrace the conduct of Mr. Wise and Commodore Rousseau on the 15th November and the 2nd of December, as the Minister for Foreign Affairs supposes. Had Mr. Wise in his note to Baron Cayru of the 21st April, last, gone beyond the affair of Lieutenant Davis and the three sailors, he would have exceeded his instructions. I am happy to find, therefore, upon a careful examination of this note, that it is confined to that subject alone. It does not refer either directly or indirectly to any other matter. I have, therefore,

been greatly surprised to find it stated in the instructions that "The Imperial Government cannot but see in that note a repetition of offences, since it is affirmed therein that the acts committed by the authorities of the United States on the 15th November and 2d of December had for their object to express their feelings on account of what they regarded as an insult and offence to them," &c., &c. No such affirmation is contained in the note of Mr. Wise.

Having thus disengaged the case of two fruitful sources of error, I shall proceed to make a brief statement of the facts as they occurred on the 31st of October, last, in regard to Lieutenant Davis and the sailors. This is derived from a careful examination of the depositions of the seven witnesses taken before Gorham Parks, Esquire, Consul of the United States at Rio de Janeiro. These witnesses are the Reverend Thomas R. Lambert, Chaplain of the United States Frigate Columbia; W. E. Stark, a Lieutenant of Marines, attached to the Columbia; Alonzo B. Davis, a Lieutenant of the Navy, then attached to the Saratoga; Samuel Macoduck of the City of New York, Master of the Barque Harmony; William McLennan of the City of Baltimore, master of the Brig Chipola; Benjamin Watlington, of New York, master of the ship Yazoo; and John Holliday, of London, master of the Barque Gardyne of Liverpool.

From these it appears that on the afternoon of Saturday, the 31st October, last, Lieutenant Davis went on shore in pursuit of two deserters. After apprehending and securing one of them in his boat, and whilst seated in the store of Brewer & Co., William Davenport, a seaman attached to another boat, came and complained to Lieutenant Davis that Michael Driscoll, a seaman belonging to the boat under his immediate command, had drawn a knife upon him (Davenport). The lieutenant immediately went to Driscoll, who delivered up the knife to him, and took him as far as the back door of Brewer's store, leading through to the wharf where the boat was lying. Driscoll was unquestionably drunk and was accompanied by two other sailors. There was no police guard in sight when Lieutenant Davis seized Driscoll, but they came up just as he reached the back door of the store. Lieutenant Davis was bringing him into the door to take him through the store to the boat, when they interfered and took hold of Driscoll. Lieutenant Davis, supposing that the police had come to his assistance, still retained his hold of Driscoll, whilst he, the Chaplain Lambert and Lieutenant Stark, en-

deavored to explain to the guard that Lieutenant Davis was the officer of the drunken sailor, that he was taking him to the boat and that he required no assistance from the Police for this purpose. Notwithstanding this explanation, the Guard still held on to Driscoll and then Lieutenant Davis surrendered him. Meanwhile, both before and after his surrender, the soldiers of the guard kept beating Driscoll and the two other sailors with their swords, until they were covered with blood; and even Lieutenant Davis' clothes were smeared with the blood of Driscoll.

The three sailors were thus in the custody of the Police Guard, which marched off with them, followed by an escort of fusiliers. After Lieutenant Davis had surrendered the sailors, he immediately returned to the store of Brewer & Co., in quest of one Antonio, a clerk of Brewer & Co., to interpret for him to the superior officer of police, from whom he expected to obtain a release of the sailors. He at the same time put on a midshipman's sword which he found lying on the counter, this being necessary to complete his uniform as an officer. Whilst thus engaged, the prisoners with their escort had got a considerable distance from Brewer's store, and it became necessary for him to run in order to overtake them. When he came up with them, at the corner of the street passing by the Palace, a file of soldiers constituting the rear of the escort, faced around and presented their bayonets within a short distance of his breast. He then drew his sword and placed it on guard in self-defence. The soldiers immediately turned around and followed the Police Guard and their prisoners, and he sheathed his sword and followed after. Again at the palace steps, the soldiers met Lieutenant Davis with fixed bayonets and drawn swords, which were put to his breast. He placed his hand upon his sword, and through Mr. Macoduck, who understood Spanish, asked for an interpreter. One appeared, and after a brief parley, Lieutenant Davis expressed a wish to see an officer belonging to the Palace. An officer (Mariano José da Cunha Pinheiro) appeared and invited him in. Lieutenant Davis went in with his sword in sheath. In the meantime Lieutenant Stark had overtaken the escort and was pushed in after Lieutenant Davis by the soldiers. When Lieutenant Davis entered, he had no opportunity of speaking a word in favor of the sailors, but was immediately seized, forcibly disarmed, and imprisoned.

Such was the excitement against Lieutenant Davis, that Mr. Watlington, one of the witnesses, was informed by an

Englishman present who understood the Portuguese language, "that he heard one of the Police Guard say that his officer had ordered him to run the American officer through with his bayonet; but that he was not going to do it, for if he did, he knew they would have hung him."

Whilst these transactions were proceeding within the palace, the gunner of the Saratoga was without. He was a peaceable spectator, engaged in eating something at the time. A number of soldiers came running up behind him and beat him so cruelly, in trying to push him into the palace, as to produce the exclamation from an English gentleman standing by: "What do they do that for? the poor fellow was doing nothing; what a damned shame it is to treat him in that way."

The Purser's steward of the Saratoga was, also, on the ground in front of the palace, where one or more soldiers beat him with the butts of their muskets.

An old man, a warrant officer in the Navy of the United States, whilst walking towards the palace in a peaceable manner, was met by a young man in a green uniform, who struck him several blows with a cane across the face and head without the slightest provocation, not a single word being spoke by either party.

Lieutenant Davis was detained in prison until Monday afternoon, the 2nd November, when he was discharged by order of the Brazilian Government on the demand of Mr. Wise and at the request of Commodore Rousseau, who was anxious that he should proceed to the United States in the Saratoga, which was upon the point of sailing. It is due to the Brazilian authorities to acknowledge that Lieutenant Davis was kindly and courteously treated whilst in prison.

Two of the sailors were discharged on Thursday, the 5th of November, having been acquitted of all improper conduct, and Driscoll, who drew the knife, was detained for trial.

I have thus made from the testimony what appears to me to be a correct exposition of the facts. The scene was one of much confusion and excitement; a great crowd had collected; facts related by some of the witnesses are not stated by others; and yet, after all, the depositions essentially sustain each other.

His Excellency the Minister for Foreign Affairs endeavors to prove, from the testimony of some of the witnesses, that Driscoll had been first seized by the Police Guard and that Lieutenant Davis had attempted to rescue him out of their hands.

He doubtless felt how ungracious it would have been for the Police to exercise the admitted right of taking a drunken sailor from the custody of his officer whilst in the act of taking him on shipboard for punishment. In the ports of all countries where foreign men-of-war resort, when sailors go ashore, become intoxicated, and violate police regulations by quarrelling with brother sailors, especially where they have insulted or injured none of the citizens of the country, their officers are always permitted to seize them and take them on board without obstruction unless they have been first apprehended by the police. This is the custom, founded on courtesy, among all nations. Their officers are the best police, and the severe discipline of a man-of-war the most efficacious punishment.

Now who seized Driscoll first, Lieutenant Davis or the Police Guard? That the first seizure was made by Lieutenant Davis, no police guard being in sight at that time, is positively sworn by the Chaplain Lambert, Lieutenant Stark, and Lieutenant Davis. The attention of the four other witnesses, Macoduck, McLennan, Watlington, and Holliday, was not drawn to the scene until the Police guard had come up to the back door of Brewer's store, to which place Lieutenant Davis had brought Driscoll. Indeed, the three first named of these last witnesses, from their position within the store, could not possibly have seen what had occurred before Driscoll was brought to the back door; and when Holliday, the fourth witness, came down from the balcony of the Pharoux's hotel where he had been, he first saw the police attempting to take the men away. But Watlington, on whose testimony His Excellency mainly relies, expressly corroborates the testimony of Lambert, Stark and Davis in this particular. He swears positively that when he "first got to the place," "at the back door of the store," he "saw the police running there from the market place near by on the South." And what was the state of the affair when the police came up? Let Watlington himself answer the question. "I saw there was difficulty at the back of the store and I went up there and saw some seamen belonging to the United States squadron trying to get one of their comrades, who was drunk, into the store. *Lieutenants Davis and Stark were directing and aiding the seamen in doing so.*" So that beyond all question Driscoll was in the custody of his officer when the Police first came up; and they took the seaman out of his custody.

The Minister for Foreign Affairs, whilst he has several times

adverted to the testimony of the Brazilian witnesses in general terms, has not particularly cited any portion of it in support of his allegations, but has relied upon that of the American witnesses. Indeed, a copy of the Brazilian depositions never was furnished to Mr. Wise, and I did not obtain one until it was delivered to me by Mr. Lisboa on the 4th February, last, after he and I had adjusted the controversy. Whilst I shall follow the example of the Minister for Foreign Affairs and not minutely examine that testimony, it may, however, be observed that neither in the report of the Corporal Santos of the Police Guard, who seized Driscoll, nor in the depositions of Guimaraez, the Sergeant, nor in those of the soldiers of the fusiliers Sousa or Monteiro, nor of any other Brazilian witness, is any allusion whatever made to the occurrences at the back door of Brewer's store. They are entirely silent on this subject; and well they may be, because the improper conduct there and the cruel manner in which the sailors were treated have caused the unfortunate difficulty between two Governments which ought ever to be friends. The Corporal Santos in his report of the 31st October, last, passes it all over by saying that he seized Driscoll "whilst he (Driscoll) was pursuing another with a knife in his hand, and then while conveying him to the prison of Aljube by order of the Most Illustrious Sub-Delegate of the District of San José, he was pursued by an English officer with a large number of seamen following." The Brazilian depositions are but an echo of this statement. I repeat, that they pass over entirely the important occurrences at the back door of Brewer's store, out of which the whole difficulty has originated. Had Lieutenant Davis attempted at that place to rescue Driscoll out of the custody of the Police, surely this fact would have been mentioned.

The brutal and cruel conduct of the Police towards the three sailors, both at the time and after they were taken from the custody of Lieutenant Davis, is not denied by His Excellency. On the contrary, he expresses regret for it, but yet, whilst speaking of "the inhuman mode which is said in the depositions to have been employed by the soldiers to oblige the seamen to follow them to prison," he says they "are certainly not to be carried by the arm like a lady, nor to be taken on the shoulders like children!" This is very true. But neither are they to be beaten with swords until they are covered with their own blood.

But the Minister for Foreign Affairs believes that after the Police Guard had seized the three sailors, and, joined by the

soldiers, were conveying them to prison, Lieutenant Davis attempted to rescue them by force. If he had been guilty of such conduct, he would have been highly censurable. But is it credible that a single man armed with a sword, in the midst of a City containing two hundred thousand inhabitants, would be guilty of the insane attempt to rescue by force three sailors out of the hands of a Police Guard and a numerous escort of fusiliers? If he had committed such an extravagance, he would be fitter for a mad-house than to perform the duties of an American officer. Is it not much more reasonable to suppose, as he expressly swears, that he followed after the sailors for the purpose of making explanations to the Captain of the Guard, and soliciting their discharge? This, as an American officer, it was his duty to do. Had he abandoned these poor sailors in this the time of their utmost need, he would have disgraced the service to which he belongs. Indeed, it was Lieutenant Stark who, according to the testimony of Mr. Watlington, first suggested the idea of following the guard, observing, "It is a damned shame to see men treated in that way; come, Davis, let us go and see what they are going to do with them."

In order to establish the fact of this attempted rescue, much stress has been laid upon the circumstance that before Lieutenant Davis followed the guard, he returned into Brewer's store, and put on a midshipman's sword which he found on the counter. It is plainly proven both by the depositions of Lieutenants Stark and Davis that the latter started to return to the store, not for the purpose of putting on his sword, which he had not brought with him from the ship, but for that of obtaining an interpreter to accompany him to the Chief Officer of the Guard. Being reminded, however, by Lieutenant Stark of the propriety of wearing his sword as a point of etiquette on such an occasion (a question on which, among military men, there cannot be two opinions) and "finding a sword on the counter belonging to one of the midshipmen (as Mr. Macoduck swears) he took it up," after having engaged an interpreter. Having buckled on the midshipman's sword, the Minister for Foreign Affairs endeavors to convey the impression that he sallied forth to attack the Police Guard with their escort.

After Lieutenants Davis and Stark returned from the store of Brewer & Company, it is perfectly true that the former did run after the guard, as stated by the Minister for Foreign Affairs. But was this for the purpose of attacking with his single arm the

military force which surrounded the sailors and rescuing them, or merely for the purpose of overtaking them and standing by them upon their examination before the Chief Officer of Police? There is not one word in the testimony of the seven witnesses examined which gives the slightest color to the idea that he intended to attack the escort. Such an absurdity does not appear to have entered the mind of any one of them.

Lieutenant Davis outran Lieutenant Stark and first overtook the guard. None of his companions had then reached the spot. At this moment a scene occurred which I shall present in the language of Lieutenant Davis himself: "Whilst the interpreter was detained, he followed the soldiers and their prisoners, who had proceeded so far ahead that he was obliged to run some distance to catch up with them. He came up with them at the corner of the street passing by the palace. Several of the soldiers, he thinks six, faced around and presented bayonets within a foot or two of his breast. He drew his sword and put it on guard, when the soldiers retreated. He then instantly sheathed his sword and followed to the palace steps."

The Minister for Foreign Affairs discredits this whole scene from the fact that none of the other witnesses mention it in their testimony. It is true they do not; but it is equally true that none of them had overtaken Lieutenant Davis when it occurred, and this in the midst of a crowded street. So far as regards the merits of the case, it is a matter of no importance whether it took place or not. It is only of consequence in regard to the character for veracity of a young officer who stands as high for truth and honor as any other in the American navy.

It is of far more importance to ascertain what occurred at the palace, and here, fortunately, we have a cloud of witnesses substantiating the same statement.

The Minister for Foreign Affairs believes that Lieutenant Davis entered the guard-room of the palace with a drawn sword in his hand. If he had founded such a belief upon the testimony of the Brazilian witnesses, it would not have been remarkable, because the two privates of the fusiliers and others swear to this extraordinary statement. Besides, Corporal Santos, to whose misconduct at the back of Brewer's store we owe the present unfortunate controversy, in his report from the Head Quarters of the Permanentes, boldly affirms that Lieutenant Davis pursued him "and entered the guard-room of the palace with a drawn sword in his hand, in order to rescue the said seamen whom I

(Santos) had made prisoner." But it is truly remarkable that the Minister for Foreign Affairs should have derived this belief from the testimony of all or any of the witnesses examined before the American Consul, not a particle of which affords the least color for such a statement.

Improbable as is the allegation that Lieutenant Davis attempted to rescue the sailors whilst in the street from the strong guard of Permanentes and soldiers by which they were escorted, the improbability is greater beyond all comparison that he should have made the crazy attempt of rushing into the palace with a drawn sword in his hand, filled as it then was with Brazilian officers and soldiers, for the purpose, with his single arm, of rescuing these sailors. This would truly have been to cast himself into the Lion's mouth. Fortunately for the sanity of Lieutenant Davis, he is relieved from this absurd charge by the witnesses examined before the American Consul, as well as by circumstances not denied by the Minister for Foreign Affairs.

That Lieutenant Davis was proceeding to the palace with no hostile intent, is demonstrated by the incident related by Mr. McLennan. That witness swears that as the Lieutenant "got near the palace, several of the sailors belonging to the United States men of war were crowding to where Mr. Davis stood, and I heard him order them back."

"On the palace steps the soldiers met Mr. Davis with fixed bayonets and drawn swords, which were put to his breast;" so swears the witness Macoduck. Mr. Holliday of London, a respectable British subject, and wholly indifferent between the parties, states this fact still more strongly, and swears that he shuddered at Lieutenant Davis' danger, "having made up my (his) mind that he would be bayoneted on the spot." In this critical and dangerous position, he drew his sword, as the witness verily believed, in self-defence; but both he and Macoduck, the only witnesses then present at the steps, with the exception of Davis himself, swear positively that the sword was sheathed when he entered the palace. From the character of the whole transaction, this must have been the case. He entered the palace by invitation of the officer of the guard; and surely he could not have entered it otherwise. To suppose that he did, would be to affirm that he entered it by force, in the face of a file of soldiers armed with muskets and fixed bayonets which were put to his breast, and stationed there to guard and defend its entrance. To say this, would be to charge the Brazilian soldiers with a

cowardly violation of duty, a reproach which I feel confident they do not desire.

The manner in which he entered, is clearly explained by Lieutenant Stark and himself.

Lieutenant Stark, of whose conduct the Minister of Foreign Affairs speaks approvingly, was some fifty yards behind, and therefore did not witness the scene to which I have just referred. When he came up, he found Lieutenant Davis inquiring "for the officer of the guard, who made his appearance. Something was said which deponent did not understand, but he judged from the motions of the officer that he invited Mr. Davis in. Mr. Davis then walked in, and as soon as he stepped in, a voice in the crowd exclaimed in English, 'Now you are a prisoner.' As soon as Mr. Davis entered, they forcibly attempted to take his sword from him, which he refused to give up." At this time Lieutenant Stark started from the guard-room to go back for an interpreter, but in proceeding out was seized by soldiers at the steps and taken back, when the officer of the guard ordered him to be released.

The statement of Lieutenant Davis accords with that of Lieutenant Stark, though it is a little more minute. And here it is worthy of remark, that the incident at the palace gate which caused Mr. Holliday to shudder for his danger is passed over by Lieutenant Davis without notice. This shows how little he desired to aggravate the case. He swears "that he followed to the palace steps, that he stopped there and asked for the officer of the guard in the Spanish language. In a few minutes the officer came to the door and invited the deponent to enter. He entered and immediately the officer laid his hand on the hilt of his sword, at the same time saying he was a prisoner. The deponent resisted the taking of his sword, upon which he was surrounded by officers and soldiers, a large number, and his sword was forcibly taken from him."

Mr. Macoduck fully confirms this statement of the two officers, with additional particulars, in regard to all which took place previously to the entrance of Lieutenant Davis into the palace "with his sword in its sheath," as he positively swears. Mr. Macoduck did not enter the palace and therefore does not testify to what occurred within.

How unfortunate was this treachery towards Lieutenant Davis! Had the captain of the guard, at the moment, dispassionately listened to the statement which he was prepared to make, confirmed as it would have been by Lieutenant Stark and

others, the three sailors would doubtless have been remanded to his custody and the two Governments would have been spared the present unfortunate cause of irritation against each other. To sum up the whole, it appears conclusively that a drunken sailor who had drawn his knife on a companion, with two other innocent sailors, was forcibly taken out of the custody of their officer by the Police Guard, when taking them to his boat; that these poor American sailors were beaten with swords until they were covered with their own blood; and that this officer, who followed them to the guard-house to plead their cause before the captain of the guard, after being invited to enter, was treacherously seized and confined in prison.

This being the position of the affair, Mr. Wise addressed a note to Baron Cayru on the 2nd November, concluding with an expression of his confident hope that the Imperial Government would disclaim and disavow this outrage in all its parts; that it would order the immediate release of Lieutenant Davis, and the American sailors seized and imprisoned with him; and that it would cause the soldiers of the guard who took the sailors from Lieutenant Davis' command, and especially the officer at the time in command of the national guard, to be condignly punished.

Without further tracing the proceedings at Rio de Janeiro, it is sufficient to state that the whole case was transferred to Washington to be adjusted between Mr. Lisboa and myself. This was done, as I firmly believe, in a manner equally honorable to both parties. In consideration of the great desire felt by the American Government to cultivate the most friendly relations with Brazil, as well as of the firm and powerful representations of the able and faithful Brazilian Minister here, this Government abandoned the demand for the punishment of the captain and soldiers of the police guard of Brazil, and was contented with a simple expression of regret on the part of that Government on account of the unfortunate events of the 31st October, last, and an assurance that the proper means should be adopted to prevent similar occurrences hereafter. This Government asked nothing which we would not cheerfully have granted to Brazil under the like circumstances, and it was with amazement and regret that we learned that the course of Mr. Lisboa had been condemned by his own Government, notwithstanding the Minister for Foreign Affairs himself, in his instructions, expresses his regret for the cruel manner in which the sailors were treated whilst they were being conducted to prison.

From all that precedes, you will not be surprised to learn that the President cannot comply with the demand of the Minister for Foreign Affairs, and will not grant the reparation required by the Government of Brazil for the acts committed by Lieutenant Davis at Rio de Janeiro on the 31st October, last, reparation, in his opinion, being clearly due from Brazil to the United States and not from the United States to Brazil.

The second demand of the Minister for Foreign Affairs upon the Government of the United States is “a categorical declaration that it had disapproved the conduct of their Envoy Extraordinary and Minister Plenipotentiary at this (the Brazilian) Court, Mr. Henry A. Wise; and that it ordered his recall as a mark of reparation due to Brazil.”

The latter part of the required declaration is of a most extraordinary character. It asks the President to falsify the truth of history and to declare that he had recalled Mr. Wise “as a mark of reparation due to Brazil;” when instead of this the records of the Senate, published in the beginning of March, last, prove that he was recalled at his own request. I sincerely hope that from some strange accident the Minister for Foreign Affairs may not have known this to be the fact at the date of his instructions; because if he had, the demand could be viewed in no other light than an indignity to the President. He is asked to violate his personal honor and proclaim a known falsehood to the world, “as a mark of reparation due to Brazil.”

In regard to Mr. Wise’s conduct subsequently to the 31st October, last, in justice to Mr. Lisboa, I have already stated that this subject was not embraced in the settlement between that gentleman and myself. On the contrary, in all our conferences, he obeyed the instructions of his government, and with a zeal, perseverance, and ability, which have rendered him an eminently successful minister in sustaining the interests of his country in the United States, he persisted in urging the recall of Mr. Wise on account of his conduct, especially on the occasion of the baptism of the Imperial Princess, and the fête of the Emperor’s birthday. The question, at Mr. Lisboa’s request, was submitted to the President, who after careful deliberation directed me to return the following answer, which I read to him on the 10th February, last, twenty days after the date of his note to me by which the affair of Lieutenant Davis and the three sailors was adjusted.

“ After a mature consideration of all the circumstances aris-

ing from the imprisonment of Lieutenant Davis and the American sailors by the local authorities at Rio de Janeiro, the President does not believe that he could recall Mr. Wise without, by implication at least, subjecting him to a censure which in the President's opinion he does not deserve for his conduct on that occasion. The President has arrived at this determination, notwithstanding his anxious desire to cultivate the most friendly relations with the Government of Brazil. He trusts that any unpleasant impressions produced by this affair may speedily pass away and be forgotten, and that during the remainder of Mr. Wise's residence at the Imperial Court, nothing may occur to interrupt the harmony which ought ever to subsist between the two nations.

"In answer to your inquiry when it is expected Mr. Wise will return from his mission, I am instructed to inform you, that some time ago and long before the imprisonment of Lieutenant Davis, that gentleman had asked to be recalled, and the President had determined to accede to his request. This affair having been happily adjusted between the two Governments, the President will not change his original determination. A vessel of war will, therefore, proceed from the United States to Rio during the next spring (probably in April or May) and will carry out a new Minister to Brazil. Soon after his arrival, Mr. Wise will return to the United States in the Columbia with Commodore Rousseau, whose term of service will then have expired."

Mr. Lisboa expressed much regret and dissatisfaction with this answer. He urged, among other arguments, as he had done before in conversation and continued to urge afterwards, that the purpose of keeping up diplomatic intercourse between nations was to preserve and strengthen their friendly relations with each other, and that, whenever, from any cause, a particular minister did not or could not accomplish this object, it was the custom of nations to recall him, on the request of the power to which he had been accredited. He cited some cases to prove that Ministers had been recalled for this reason alone, although particularly agreeable to the Governments by which they had been appointed.

Without contesting this general principle, I always answered him in the same manner. I observed that there must necessarily be exceptions to this rule, arising out of special circumstances, and that the present was a case of that kind. That it would be impossible to recall Mr. Wise without involving an admission that

the Brazilian authorities had acted correctly in imprisoning Lieutenant Davis and the American sailors and a disapprobation of his efforts to obtain their release; and that the President would never, by his conduct, afford any ground for such an inference. After the settlement between Mr. Lisboa and myself, I said, in addition, that the object which the Brazilian Government had sought would now be accomplished, as Mr. Wise would leave that country early in the next summer; and with this they ought to be satisfied.

The instructions of the Minister for Foreign Affairs render it necessary that I should advert more particularly to the conduct of Mr. Wise and Commodore Rousseau on the 15th November and 2nd of December, last.

On the first of these occasions, which was the celebration of the baptism of the Imperial Infant Isabella, Mr. Wise, although invited, did not appear at Court, nor did Commodore Rousseau fire a salute from the Columbia.

On the second occasion, which was the fête of the Emperor's birthday, Mr. Wise, not being invited, did not of course appear at Court, nor did Commodore Rousseau fire a salute or hoist the flags of the Columbia.

In justice to Mr. Wise, it ought to be observed, that the Imperial Government are mistaken in supposing that it was through his advice or agency Commodore Rousseau omitted these ceremonies on either occasion. That gallant officer acted upon his own responsibility and from a sense of what he thought due to the honor of the American flag.

Whilst the President is anxious that our public functionaries in Brazil should pay all due honors to His Imperial Majesty and his august family, he cannot, under the peculiar circumstances, condemn either the Minister or the Commodore for the mere omission to perform acts of customary ceremony. They were both at the time smarting under the recent insult and indignity which had been offered to the flag of their country by the Brazilian authorities in the affair of Lieutenant Davis and the three sailors, and which had just been approved and justified by the Government of His Imperial Majesty; and they embraced these occasions to manifest the sense which they felt of this insult and indignity. But after all, they only omitted to perform acts of courtesy from a deep conviction of what was due to their country; and this ought never to form a subject of grave complaint or endanger the peaceful relations between two friendly governments.

Soon after these events, however, our vessels of war at Rio, greatly to the satisfaction of the President, commenced again, under the advice of Mr. Wise, to fire the customary salutes on festal occasions in honor of Brazil, and have, I believe, ever since continued this very proper and respectful practice.

In regard to the speech said to have been delivered by Mr. Wise on the occasion of a baptism on board of an American ship in the harbor of Rio, I can say nothing, that gentleman having never adverted to the subject in any of his communications. I have not seen any account of it except that which appeared in a very few American newspapers some six or seven months ago. As this speech has never been referred to by the Brazilian Government until the date of the instructions on the 31st May, last, I presume they must also have derived their information from the same newspapers. Whilst in entire ignorance of the whole transaction from any other source, I yet venture to hazard the assertion, that its publication was never sanctioned by Mr. Wise as the Minister of Foreign Affairs supposes.

3. You have also been directed to inform me in case Mr. Tod should have left the United States before your receipt of the instructions (which he had done) that "the Imperial Government is resolved not to receive him in his official character until he has agreed to give satisfaction, in the sense and terms in which you are charged to exact it." In other words: a serious controversy had been pending between the two Governments; this was amicably and honorably adjusted by the Brazilian Minister and myself; his course has been disapproved by his Government, and, in the very communication announcing this disapproval, I am informed that the Brazilian Government have taken the whole affair into their own hands, have prescribed the only terms upon which it can be settled, and have refused in advance to receive our Minister unless he should first agree to give the satisfaction required by these terms. All diplomatic relations are thus to cease between the two countries by the act of Brazil, and the only means is to be rejected whereby national disputes can be peacefully and honorably adjusted, through the direct agency of the parties. When one independent nation thus assumes the lofty ground of dictating terms to another to which she could not have expected submission, at the same time announcing that unless these terms should be yielded all friendly intercourse between them must be suspended, the natural inference from such conduct is that she intends an open rupture. And yet it is

scarcely conceivable that the Government of Brazil should deliberately resolve to sever, in a manner thus rude, the bonds of friendship which have hitherto so happily united the two nations. Under this impression, the President will take no decisive step, either in relation to the existing controversy or to the urgent questions which have long been pending between the two Governments, until he shall have first learned that the Government of Brazil have actually refused to receive the Envoy Extraordinary and Minister Plenipotentiary of the United States. In the meantime, he ardently hopes that upon further reflection the Imperial Government may have adopted more pacific counsels.

I avail myself of this occasion to offer you assurances of my very distinguished consideration.

JAMES BUCHANAN.

To SENHOR DOM FELIPPE JOSÉ PEREIRA LEAL, &c., &c., &c.

P. S. As it is not clear from Mr. Wise's despatches that he had furnished Baron Cayru with a copy of the depositions of the Chaplain Lambert and Lieutenants Davis and Stark, taken before the American Consul on the 5th day of November, last, I now furnish you such a copy for the use of the present Minister for Foreign Affairs.

J. B.

TO MR. TOD.¹

No. 4.

DEPARTMENT OF STATE,

WASHINGTON, 31st August, 1847.

To DAVID TOD, ESQUIRE,
etc., etc., etc.

SIR:—

On the third Mr. Leal, the Chargé d'Affaires of Brazil, called at the Department and informed me that he had been instructed by his Government to state to me, in personal conference: 1. That they had disavowed the settlement made between Mr. Lisboa and myself. 2. That in consequence thereof, he had been instructed to make an arrangement of the affair of Lieutenant Davis with the Government of the United States. 3. That he had also been instructed to make an arrangement with this Government of the affair of Mr. Wise; and

4. That he had been instructed to communicate to me, that

¹ MSS. Department of State, Instructions, Brazil, XV. 154.

if Mr. Tod had not received instructions to arrange these two affairs, he would not be officially received by the Brazilian Government upon his arrival at Rio, nor until he had received such instructions.

After Mr. Leal had proceeded so far as to make known to me the nature of the demands of the Brazilian Government in regard to the affairs of Lieutenant Davis and Mr. Wise, I asked him if he proposed to discuss these questions in verbal conference. He replied that such were his instructions. I then objected to this mode of treating the questions. I said that the settlement between Mr. Lisboa and myself had been made in writing, and there ought therefore to be some communication in writing on the files of the Department to show that this settlement had been disavowed by the Brazilian Government.

That in regard to any new arrangement of the questions in dispute, the subject was one of great importance, and might possibly involve the friendly relations between the two Governments; that this Government was responsible to the people and their Representatives for the manner in which their foreign relations were conducted; and I should therefore be unwilling that the proceedings between us on so grave a question should rest entirely on his memory and my own. Congress might call for information, and I could not report in answer a private conversation between him and myself. Besides, we might differ in our recollection and thus involve the subject in still greater difficulties than existed at present. I therefore suggested to him the propriety of addressing me a communication in writing.

Mr. Leal replied that his Government was, also, a responsible Government; but his instructions were to treat with me on the subject in personal conference. Finally, however, after many remarks on both sides, but more on his part than mine, he promised that he would furnish me, within two or three days, either a memorandum in writing, or a copy of his whole instructions.

On the 5th instant he delivered to Mr. Derrick, in my absence from the City, a copy of his instructions, dated on the 31st May, last, of which I now transmit you a copy.

I also transmit you a copy of my answer to Mr. Leal, dated on yesterday.

These two documents will make you fully acquainted with the present state of the affair as well as with the views of the President, to which you will of course conform.

If the Brazilian Government have refused to receive you,

and should persist in this course until you can no longer indulge a reasonable hope that you will be received without making the required apology, then it is the President's direction that you shall return to the United States. The frigate Savannah, on her return from the Pacific, will touch at Rio and may probably afford you the means of conveyance.

This whole affair is annoying, especially at the present moment. We have nothing to gain in honor, but much to lose in commercial interest, by a rupture with Brazil. This ought to be avoided, if possible; but yet I need scarcely say that under no circumstances will the required apology be made. Still, it is very desirable that the Brazilian Government should receive you. In that event the settlement between Mr. Lisboa and myself might be permitted to remain, or, at the worst, we might consider whether we would not suffer matters to continue in *statu quo* and thus pass into oblivion. On the other hand, should the Brazilian Government finally refuse to receive you, it may become the imperative duty of this Government to demand satisfaction from them, and, in case of refusal, to enforce this demand.

Should diplomatic relations be suspended between the two Governments, this demand, as well as a demand for the payment of the long deferred claims of our citizens on the Brazilian Government, must be made by an officer of the Navy in command of an American squadron. This would necessarily cause much irritation.

The Government of Great Britain, through their Minister at Washington, have, on the 11th June, last, communicated information, with the facts upon which it is founded, to this Government, showing, "that the number of slaves introduced into Brazil from Africa in 1846 was no less than forty-two thousand; and that the trade is openly carried on without any attempt at hindrance on the part of the authorities." The African slave trade is a disgrace to the civilization of the nineteenth century; but thank God! Brazil is the only nation on the American continent where it is tolerated. I regret, however, to say that there is too much reason for believing that the Brazilians are aided in this nefarious traffic by American citizens and by vessels built within the United States for the very purpose. Our squadron upon the coast of Brazil has been instructed to use the utmost vigilance in discovering and capturing all American vessels on the open sea and beyond the Brazilian jurisdiction, whether outward or inward bound, engaged in the African slave trade.

This will almost necessarily produce dangerous and delicate questions between the two Governments, which, without the intervention of a Minister of the United States at Rio, may end in an open rupture. Indeed, the continuance of peace between the two nations may depend upon your reception by the Government of Brazil, as Envoy Extraordinary and Minister Plenipotentiary of the United States.

In view of all the circumstances, therefore, I am specially directed by the President to instruct you to use all honorable efforts to be received by the Brazilian Government, and not to leave Rio until these shall have been exhausted and the case has become hopeless.

I am, Sir, very respectfully, your obedient servant,
JAMES BUCHANAN.

TO MR. CRAMPTON.¹

DEPARTMENT OF STATE,
WASHINGTON, 2d Septr., 1847.

JOHN F. CRAMPTON, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 10th of June last, communicating to this Government copies of a despatch and accompanying papers lately received at the British Foreign Office from Her Majesty's Consul at Rio de Janeiro, relative to the state of the Slave Trade in that city and Province, during the year 1846, with remarks on the condition of the trade generally throughout Brazil.

With reference to a note on the same subject, addressed to this Department on the 9th of February, 1846, by Mr. Pakenham, you renew the suggestion then made, whether, in virtue of the engagement mutually contracted by the United States and Great Britain, by the ninth article of the treaty of Washington, "to unite in making representations against the continuance of the Slave Trade, to Powers within whose dominions markets for imported Africans were still allowed to exist," it would not be fitting that a representation should be made to Brazil by the Government of the United States; and request that you may be furnished with copies, or with the substance and date, of any

¹ MSS. Department of State, Notes to Great Britain, VII. 166.

representations which may have been made by the latter to the former, in execution of that engagement.

The President deeply regrets to learn from the Consular estimate that forty-two thousand slaves have been imported into Brazil from Africa in 1846, and that the trade is openly carried on without any attempt at hindrance on the part of the local authorities. This trade is a disgrace to the civilization of the nineteenth century; and it is truly deplorable that after such powerful efforts have been made for its suppression, it should still be conducted on a scale so extensive.

In addition to the information conveyed in my note to Mr Pakenham of the 31st July, 1845, I have the honor to state that, on the 27th of the following September, a letter was addressed to Mr. Wise, directing him to omit no occasion, whenever in his judgment this could be done with the prospect of a beneficial effect, to urge upon the authorities of Brazil such representations and remonstrances as, without giving offence, would be best calculated to accomplish the humane and important object provided for by the treaty, and which the Government and People of the United States have so much at heart. Upon the receipt of these instructions, he accordingly sought an interview (19 December) with Senhor de Abreu, the Brazilian Minister for Foreign Affairs, and called his attention to the obligations of this Government under the ninth article of the treaty of Washington. Mr. Wise especially disclaimed any intention to interfere with the domestic policy of Brazil, and desired to be understood only in the sense of making a separate friendly representation of the desire of the United States that Brazil should, by her own means, and in her own way, arrest the foreign Slave Trade to her dominions, and destroy the market for slaves in her territory. Senhor de Abreu made a note of these representations, receiving them without displeasure or objection; but it does not appear from the correspondence of Mr. Wise with this Department that they were productive of any practical good effect. I am sorry to add that the personal relations of the United States Minister at Rio with the Imperial Government have since been such as to forbid the expectation of a successful result from any application on his part in execution of the instructions of his Government.

A new Minister of the United States has been recently despatched to Rio de Janeiro, and in preparing his instructions, dated the 11th of June last, his attention has been particularly pointed to those addressed to his predecessor in the Mission,

respecting the fulfilment of the provisions of the ninth article of the treaty of Washington. The hope is therefore indulged, that soon after his arrival at his post, Mr. Tod will find a favorable opportunity of presenting to His Imperial Majesty's Government the representations and remonstrances on this subject which the Government of the United States are so anxious to make, impelled by the twofold motive of discharging a conventional obligation, and of alleviating human suffering.

I avail myself of the occasion to renew to you, Sir, the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. COTTER.¹

Private & Confidential.

WASHINGTON 4 September 1847.

MY DEAR SIR /

I have received your favor of the 23d ultimo with an extract from the Pioneer presenting my name, in kind terms, for the first office in the gift of the people. Whilst gratefully sensible of your friendship, I consider the policy very doubtful of bringing my name forward in the public Journals as a candidate for that office. In regard to it I have no ambitious aspirations to gratify: & my only desire is that the candidate should be selected, provided he possesses sound Democratic principles, who will be the strongest before the people of the Union & therefore the most likely to prove successful. Even if Pennsylvania possessed such a man, it is scarcely possible that he should obtain the nomination. Our divisions would prevent this, because it requires energetic & united action in any State to obtain the nomination in favor of one of its own citizens. I rejoice, however, that there is one measure, in favor of which, with but few exceptions, we shall all be cordially united: & that is a National Convention. In that body, although I believe we shall not succeed in obtaining a Pennsylvania candidate, for the reason I have mentioned, we may exercise a controlling influence in selecting the best man from the candidates which may be presented by other States. With sentiments of gratitude & respect, I remain sincerely your friend

JAMES BUCHANAN.

C. B. COTTER Esq.

¹ Buchanan Papers, Historical Society of Pennsylvania.

TO MR. LEAL.¹

DEPARTMENT OF STATE,
WASHINGTON, 10th September, 1847.

TO SENHOR DOM FELIPPE JOSÉ PEREIRA LEAL,
&c., &c., &c.

The Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Leal, Chargé d'Affaires of His Majesty the Emperor of Brazil, of yesterday's date, accompanied by a copy of a letter from that Sovereign to the President of the United States, and requesting the appointment of a time for Mr. Leal to present the original. In reply, the Undersigned has the honor to acquaint Mr. Leal that the President will receive him for that purpose at 12 o'clock on Monday the 13th instant.

The Undersigned avails himself of this occasion to offer to Mr. Leal renewed assurances of his distinguished consideration.

JAMES BUCHANAN.

TO MR. BANCROFT.²

(No. 16.)

DEPARTMENT OF STATE,
WASHINGTON, 13th Septr., 1847.

GEORGE BANCROFT, ESQRE.

&c., &c., &c.

SIR:

Your despatches to No. 41, inclusive, have been duly received and laid before the President.

In your letter of the 7th August last, numbered 37, you present an application on the part of Baron Beust, the Saxon Minister at London, for assistance in facilitating the capture and prosecution of a fugitive from justice named Ernest Ramshorn, who is alleged to have absconded in June last, from Eisenberg, Saxe Altenburg, stealing and taking with him a considerable amount of money, and who is supposed to have sought refuge in the United States.

However desirous the President might be, as a matter of international courtesy, to meet the wishes of the Saxon Government on this subject, he is entirely without authority to interfere

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 65.

² MSS. Department of State, Instructions, Great Britain, XV. 348.

in any manner in such a case. The arrest and commitment of an offender who has fled to this, from a foreign country, can only be made in virtue of a conventional arrangement for the mutual surrender of criminals charged with the commission of certain offences therein designated; and under our treaties of extradition this must be effected through the intervention of the local authorities of the place where the fugitive is found. It is not until after such arrest and commitment shall have been notified to the President by the proper judicial authorities, that a warrant can be issued by him for the delivery of the criminal to the pursuing parties.

The policy and practice of our Government in relation to extradition are pretty fully developed in a letter of instructions addressed to Mr. Wise from this Department on the 27th of September, 1845. I enclose, herewith, for your information, an extract from it, which may prove useful to you in explaining to Baron Beust the inability of the Executive to comply with his request on this occasion, as well as in enabling you to answer similar applications from other quarters.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. BANCROFT.¹

No. 17.

DEPARTMENT OF STATE,

WASHINGTON, 14th Sept., 1847.

SIR: I transmit you the copy of a letter, bearing date the 15th ultimo, from Colonel Henry Wilson, of the United States army, the acting Governor of Vera Cruz, addressed to the War Department. From this, as well as other information, it appears that Captain May, of the British steamer "Teviot," although fully aware of the character of his passenger, brought General Paredes from the Havana to Vera Cruz, and connived at, if he did not directly aid in, his landing at that port in a clandestine manner, and contrary to the established regulations requiring a visit from the proper inspecting officer before any passengers could be landed.

That the Captain of the British steamer, by this conduct,

¹ MSS. Department of State, Instructions, Great Britain, XV. 349; H. Ex. Doc. 25, 30 Cong. 1 Sess. 27; H. Ex. Doc. 60, 30 Cong. 1 Sess. 796.

has been guilty of a grave and serious violation of the duties of neutrality which Great Britain owes to the United States, can neither be doubted nor denied. It is known to the world that General Paredes, as President of Mexico, was the chief author of the existing war between that Republic and the United States; and that he is the avowed and embittered enemy of our country. The British Captain must have known that all his influence would be exerted to prolong and exasperate this war. It is, indeed, truly astonishing that, with a knowledge of these facts, he should have brought this hostile Mexican General under an assumed name on board of a British mail steamer to Vera Cruz, and aided or permitted him to land clandestinely for the purpose of rushing into the war against the United States. If any circumstance could aggravate this violation of neutrality, it would be the extraordinary privileges which this Government has granted to British mail steamers ever since the commencement of the present war.

The President has not yet determined what course he will pursue in regard to British mail steamers. The great law of self-defence would, under the circumstances, justify him in withdrawing the privilege altogether from these steamers of entering the port of Vera Cruz, and thus effectually prevent the landing of enemies in disguise. He will not, however, resort, at present, to this extreme measure, convinced as he is that the British Government will, at once, upon your representation, adopt efficient means to prevent such violations of their neutrality for the future. In the mean time, Colonel Wilson will be instructed to adopt the necessary means, under the law of nations, for the purpose of preventing and punishing similar outrages on our belligerent rights. British mail steamers cannot be suffered to bring to Vera Cruz either Mexican citizens or the subjects of any other nation for the purpose of engaging in the existing war on the part of Mexico against the United States. A neutral vessel which carries a Mexican officer of high military rank to Mexico for the purpose of taking part in hostilities against our country, is liable to confiscation, according to the opinion of Sir William Scott, in the case of the Orozembo (6 Robinson's Reports, 430); and this, even although her Captain and officers were ignorant that they had such a person on board. That is their lookout. Such ignorance is no excuse, because it is their duty to inquire into the character of their passengers. The consequence is the same to the belligerent as if they had acted with full knowledge. "Otherwise (in the language of that distinguished Jurist,) such oppor-

tunities of conveyance would be constantly used, and it would be almost impossible, in the greater number of cases, to prove the knowledge and privity of the immediate offender."

You are instructed to make Lord Palmerston fully acquainted with the conduct of Captain May. I do not know whether he or any of his officers who may be implicated in this serious charge are officers in the British service. Should this prove to be the case, then you will ask for their dismissal or such other punishment as may clearly manifest that the British Government has disapproved their conduct.

I am, Sir, very respectfully, your obedient servant,

JAMES BUCHANAN.

GEORGE BANCROFT, ESQRE., &c., &c., &c.

TO MR. WALSH.¹

DEPARTMENT OF STATE,

WASHINGTON, Sept. 16, 1847.

ROBERT WALSH, ESQRE.

U. S. C. Paris.

SIR,

I transmit herewith my decision "on the question as to the amount of Commissions to which Mr. Walsh is entitled, as Consul at Paris, out of the Estate of Mrs. Julia Vail, an American Citizen, who recently died near that City," and which was submitted to me by the parties.

I am Sir &c.

JAMES BUCHANAN.

The parties have submitted to me the question as to the amount of Commissions to which Mr. Walsh is entitled, as Consul of the United States at Paris, out of the Estate of Mrs. Julia Vail, deceased, an American Citizen who recently died near that City. After a careful examination of the law and the facts of the case, I am very clearly of opinion that he is entitled to the amount charged by him, 5,990.50 francs, deducting therefrom the sum of 775 francs, the Commissions at the rate of 2½ per cent. on the Ohio & New York Loan.

The main objection seems to be to the charge of Consular

¹ MSS. Department of State, Despatches to Consuls, XII. 337.

Commissions upon the public loans & stocks owned by Mrs. Vail at the time of her decease; but it appears to me that the Consular Instructions framed for the purpose of carrying into execution the Act of April 14, 1792, have long since settled this question in favor of the Consul. Surely these loans and stocks, so far as they are French, are in the language of the law, "personal estate left by any Citizen of the United States" within the Consulate of Mr. Walsh at Paris, and might have been sold by the Consul, and applied, had this been necessary, to the payment of the debts of the deceased, which she had "*there contracted.*"

Both the Act of Congress and the Instructions require the Consul to administer "the effects" of deceased American Citizens, "who shall die within their Consulates." The word "effects" is most comprehensive in its signification, and embraces, as the Instructions declare, "property of every description, including debts due."

The Act of April 1792 has proved highly beneficial in practice. It has relieved the personal Estate of American Citizens who die abroad from the heavy expenses and vexatious delays incident to their administration by the authorities of foreign Countries, and after paying the debts of the deceased "*there contracted,*" has secured the balance to those entitled to receive it in the United States. These benefits result altogether from the fact that the whole estate abroad is subjected to Consular jurisdiction and administration, in exclusion of the local authorities.

It is true that in the present case the certificates of the loans and stocks of Mrs. Vail were never in the actual possession of Mr. Walsh, because the Messrs. Hottinguer, in whose hands they had been deposited by the deceased, refused to place these evidences of debt in his custody. But surely this illegal barrier interposed by them to the execution of the Act of April 1792 could not impair the rights of the Consul, or relieve him from the performance of his duties. If it could, the whole efficacy of the Act might be destroyed by the refusal of third persons to deliver over to the Consul property of the deceased, or evidences of debt in their possession.

I am equally clear in opinion that Mr. Walsh is not entitled to Commissions upon the amount of the Ohio & New York loans. The Act of April 1792 is confined, as it ought to be, to the personal estate of the deceased in the foreign Country where he dies. It never was intended to embrace such personal Estate as he may have left behind him in his own Country. It would

have been an absurd provision to require this to be withdrawn by the Consul to a foreign Country from the Creditors of the deceased at home, for the purpose of paying debts due to foreign Creditors. The Consul from the necessity of the case acts as administrator of the effects within his consulate, but the provisions of the law do not extend his power beyond this necessity. The personal estate at home remains to be administered by the legal Representative at home according to the laws of the State or District to which the deceased belonged. Under this Act the proper Consul is "to take possession of the personal estate left by any Citizen of the United States," where "the laws of the (foreign) Country permit." Of course this must be the personal estate left within the jurisdiction of such foreign Country. He is not to collect the debts due to the deceased at home, but only "the debts due to the deceased in the Country where he died." In like manner, he is not to pay the debts due from the deceased at home, but only such debts as "he shall have *there* (in the foreign Country) contracted."

It is true that the certificates of the loan or debt due to Mrs. Vail from the States of Ohio & New York happened to be in France, and not in the United States, at the time of her decease. But surely this accidental circumstance cannot change the law. If an American Citizen should die in a foreign country, having left in the hands of a Depositary in the United States, his Bonds and Mortgages, certificates of State Loan, or other evidences of debt due him at home, it would not be pretended that an American Consul abroad could collect these debts and administer upon them, under the Act of April 1792. How then can it be contended that jurisdiction over the effects of the deceased at home could be given to our foreign Consuls abroad, from the mere fact that these evidences of debt were found in his possession at the time of his death beyond the limits of the United States?

As an act of proper precaution, the Instructions, going in this respect beyond the Act, require the Consul: "If among the papers of the deceased are found any evidences of debts, *although they may not be due in the Consular Districts*, yet they are to be placed in the Inventory." This was necessary for the information & security of individuals interested in the United States, and it was evidently inserted for no other purpose.

As, therefore, it was impossible that Mr. Walsh could, under any circumstances, by virtue of his Consular Authority at Paris, have assumed jurisdiction or control over these debts due to the

deceased from the States of Ohio and New York, it follows as a necessary consequence that he is not entitled to Commissions on their amount.

It may be satisfactory to the parties to know that Mr. Clifford, the eminent jurist who is now the Attorney General of the United States, concurs with me in this opinion throughout.

A letter similar to the foregoing to Mr. Walsh & dated same day, with a copy of the above decision, addressed to Aaron Vail, Esqre., New York.

TO MR. DE LUZE.¹

DEPARTMENT OF STATE,
WASHINGTON, 17th September, 1847.

To L. P. DE LUZE, ESQRE.,

Consul of the Swiss Confederation, New York.

SIR:

I have the honor to inform you, in reply to your letter of the 13th instant, that no Convention is in force between the United States and Switzerland for the mutual extradition of criminals.

The Convention to which you refer was submitted to the Senate, and by that Body ratified, with an amendment striking out from its first article a provision by which neither of the contracting parties was to be required to deliver up its own citizens. The Senate's action took place on the 3rd March last; and as the Convention, which was dated the 15th of September previous, required that the exchange of ratifications should be made within six months from its date, no time remained for ascertaining whether the Swiss Government would consent to the amendment of the Senate, and the Convention accordingly failed.

Under these circumstances, you will perceive that the President possesses no authority whatever to interpose in any manner in reference to the alleged defaulting Swiss citizen, supposed by you to be now residing in Connecticut, a fugitive from justice.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to German States, VI. 170.

TO MR. CLAY.¹

(No. I.)

DEPARTMENT OF STATE,
WASHINGTON, 18th September, 1847.

To J. R. CLAY, ESQUIRE, &c. &c. &c.

SIR: From the instructions and despatches on file in your Legation, you will learn the causes of the delay on the part of the Government of Peru in carrying into execution the Convention concluded at Lima on the 17th March, 1841. These have all been happily removed, and the ratifications of the original Convention, modified according to the amendment proposed by the Congress of Peru, were exchanged at Lima on the 31st October, 1846. You will perceive from the whole history of this transaction how anxious the Government of the United States has always been to accede to the wishes of that of Peru.

In the full confidence that this modified Convention would be executed punctually and in good faith by the Peruvian Government, and after it had been ratified by the Senate on the 29th May, 1846, the Congress of the United States passed an Act, approved on the 8th August, 1846, to carry it into effect. In pursuance of this Act, the Attorney General has communicated to this Department a list, dated on the 7th August, last, of the several awards made by him in favor of the claimants under the Convention. A copy of this list, with the accompanying note, will be delivered to you.

In February, last, the Peruvian Government paid to Mr. Jewett the sum of thirty thousand dollars, the first instalment due under the Convention, but without the interest, and at the same time applied to this Government through him to consider the first instalment to have been due, not on the first day of January, 1846, according to the express terms of the Convention, but on the first day of January, 1847. They appear to have rested this application upon the ground that the ratifications of the Convention had not been exchanged until after the 1st of January, 1846. But independently of the day having been fixed by the Convention itself when the first instalment should be paid, the general rule of public law is that a Treaty "is binding on the contracting parties from the date of its signature, unless it contain an express stipulation to the contrary. The exchange of the ratifications has a retroactive effect, confirming the Treaty from

¹ MSS. Department of State, Instructions, Peru, XV. 56. All but the last paragraph of this paper is printed in S. Ex. Doc. 58, 31 Cong. 1 Sess. 4.

this date." Mr. Osma, since his arrival in this country, has in conversation presented to me this application of the Government of Peru; but I informed him that this Government could not consent to change the terms of the Convention, and gave him the reasons for this determination; with which he seemed to be satisfied. He told me that he would immediately communicate this information to his Government.

You will, therefore, soon after your arrival in Lima, urge the payment of the second instalment under the Convention, due on the 1st January, 1847, together with the interest on the first instalment, if these shall not have already been paid. After all the difficulties and delays which have been already interposed, it is hoped that the Government of Peru will hereafter discharge the instalments punctually as they shall become due. The claimants, who have been already so long postponed, will urge this Government to obtain for them their just demands according to the terms of the Convention; and this they have a right to expect.

An arrangement has been made between this Department and the Navy Department, under which you will be relieved from the necessity of receiving the instalments as they become due from the Peruvian Government. Under this arrangement, these will be received by Messrs. Edward McCall & Co., Navy Agents of the United States at Lima, and will be expended there for the use of the Navy; whilst the Secretary of the Navy will cause the same amount to be deposited in the Treasury of the United States for the use of the claimants under the Convention with Peru. You will be furnished with a copy of my letter to Messrs. McCall & Co. of the 24th March, last, which will afford you all the necessary information on this subject.

In the case of the claim of Samuel F. Tracy, an American citizen, against the Government of Peru, I refer you to the instructions of Mr. Webster to Mr. Pickett, dated on the 16th November, 1842. You may consider these instructions as reiterated by me except the two last paragraphs relating to the subject, the first of which is no longer applicable, and the propriety of the second is at least doubtful. It is high time that this claim should now be adjusted, and you are instructed to press its final settlement with respectful urgency. The just amount due to the claimant can best be ascertained by you in conjunction with the Peruvian Minister for Foreign Affairs, with all the proofs on both sides in your possession.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. RUSH.¹

(No. 7.)

DEPARTMENT OF STATE,

WASHINGTON, 25th Septr., 1847.

RICHARD RUSH, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your despatches to No. 5, inclusive.

With reference to your letter of the 31st ultimo, I have to state that the Convention between the United States and the Swiss Confederation, for the mutual surrender of criminals, signed by their Plenipotentiaries at Paris, on the 15th of September, 1846, reached this Department on the 13th of November, and on the 14th of December following was submitted to the Senate of the United States for their consideration and advice regarding its ratification. It appears to have met with some opposition in this body, principally, if not wholly, it may be presumed, by reason of the restriction contained in the first article, excepting the citizens of each party from requisitions made by the other; since it was not definitively acted on until the 3d of March, 1847, when the Senate resolved to "advise and consent to the ratification of the Convention," "with the following amendment: Strike out of the first article the following words: 'with the distinct understanding, however, that in no case shall the High Contracting Parties be required to deliver up their respective citizens.'" A certified copy of this resolution was received at this Department on the 4th of March; but as the sixth article of the Convention stipulated that the ratifications should be made within a period of six months, and only eleven days of this time then remained wherein to transmit the instrument to France, to obtain the assent of the Swiss Cantons to this modification, and to effect the ceremony of exchange, the Convention was regarded as having lapsed.

In a conversation which subsequently took place at the Department between Mr. Cazenove, the Swiss Consul at Alexandria, and myself, the causes of the failure of the Convention were adverted to and explained; and as no doubt was entertained that the facts would be by him communicated to the Federal Directory, nothing further has been done in the matter.

¹ MSS. Department of State, Instructions, France, XV. 55.

It may be proper to add, in this connection, a few observations touching the present policy of this Government in respect to the surrender of fugitive criminals.

Several of the Continental Powers of Europe have attempted to conclude treaties of extradition with us; but the negotiations have failed because they would not consent to surrender their own subjects or citizens who, after having committed crimes in the United States, might escape to their own country. This Government cannot consent, as at present advised, to such an exception.

1. Because from our constitutions and laws, Federal and State, there could be no mutuality in such a provision. On the Continent of Europe, where the civil law prevails, if, for example, a citizen of Switzerland should commit a crime in Wisconsin, and take refuge in his own country, he might there be tried and punished, though, from the expense and difficulty of obtaining the necessary testimony, he would be almost certain to escape. Not so in regard to an American citizen. Should he commit a crime in Switzerland, and fly to the United States, no existing tribunal in this country could try and punish him; and it is very questionable whether such a tribunal could be created.

2. Our commercial cities swarm with foreigners—merchants, traders, artisans, &c., who, under our laws and treaties, enjoy the same privileges in conducting their business with American citizens. A treaty of extradition would be of comparatively little value, if such of these foreigners as shall commit crimes in this country should be excluded from its operation, in case they were able to escape to their own country.

3. Such an exception might be embarrassing in regard to our naturalization laws. Under it, citizens of the United States by naturalization would certainly not be surrendered. Who is such a citizen? We must ever maintain that a naturalized citizen is in all respects entitled to the same rights and privileges as if he were a native. But this is not the doctrine on the Continent of Europe. In what condition would be the subject of a foreign Kingdom who had emigrated to this country, declared his intention of becoming a citizen, and resided here some years? Numerous perplexing questions might arise which I need not specify.

For these reasons to which I merely advert, the President will adhere to the policy which governed in framing the extradition treaties with Great Britain and France—the only two

nations with which we have concluded such treaties. These provide for the surrender of all persons who are fugitives from justice, without regard to the country to which they may belong; so that their crimes may be tried and punished within the jurisdiction where they were committed. The Senate on several occasions has sanctioned this principle; and this is the only reason why we have not at the present moment treaties of extradition with Prussia, Holland, Belgium, Austria, Switzerland, and other Continental Powers.

In consequence of the representations which have reached this Department, as well on the part of the Sardinian Government as from various other quarters, denouncing Mr. Edward C. Lester, and alleging that his conduct as an officer of this Government abroad has been highly exceptionable, the President has been pleased to dispense with his services as Consul of the United States at Genoa; and has accordingly appointed, as his successor in that Consulate, John Macpherson, of Virginia, who is already on the way to his post.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. BANCROFT.¹

(No. 20.)

DEPARTMENT OF STATE,

WASHINGTON, 29th Sept., 1847.

GEORGE BANCROFT, ESQRE.,
&c., &c., &c.

SIR:

You ask for instructions in regard to the establishment of the indirect trade between Great Britain and the United States. These would long since have been furnished had I not expected a report from you on the whole subject of our trade with the British Territories and Colonies. Such a report, characterized by your well known ability and accuracy of detail, would greatly assist me in preparing your instructions. Besides, by this time, you may probably have formed an opinion as to what is, and what is not, attainable, and how far the British Government might be induced to proceed in relaxing their Colonial restrictions. I shall, as soon as possible, apply myself with diligence to this

¹ MSS. Department of State, Instructions, Great Britain, XV. 353.

subject; and, from the means of information which you possess in London, you can render me great assistance in performing the task.

In the mean time, you are instructed that the policy of this Government is recorded in the act of Congress of May 24th, 1828, entitled "An Act in addition to an Act, entitled 'An Act concerning discriminating duties of tonnage and impost,' and to equalise the duties on Prussian vessels and their cargoes."

Our Commercial Convention with Great Britain, of the 3d July, 1815, is confined to the direct trade between the Territories of Her Britannic Majesty in Europe and the United States. The President is not only willing but anxious to conclude a new Convention with Great Britain, upon principles of equal reciprocity, which shall embrace both the direct and indirect trade between the United States and all the British Territories and Colonies in every portion of the world. The negotiations for this purpose may commence immediately, provided there be a reasonable prospect of success. I can easily anticipate, however, from the complexity of the British Colonial System, that to arrange the details of such a treaty as Great Britain might probably be willing to conclude, would be a task of much difficulty. If she should consent to abandon her entire Colonial System, and place her Colonies on the same footing with her Territories in Europe, the treaty would be comparatively simple in its provisions.

In any event, you might continue your endeavors in conversation to prepare the minds of the members of the British Cabinet for abolishing every restriction in the trade, direct and indirect, between all the possessions of the two countries, and placing it on the footing of the most perfect reciprocity. This is equally required by the enlightened spirit of the age, the avowed policy of both nations, and the mutual interest of their people.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. SAUNDERS.¹

(No. 15.)

DEPARTMENT OF STATE,
WASHINGTON, 29th September, 1847.ROMULUS M. SAUNDERS, ESQRE.,
&c., &c., Madrid.

SIR:

I have the honor to acknowledge the receipt of your letters dated at Paris, on the 22nd of May, the 12th and 30th of July, the 25th of August, and the 1st instant; and of Mr. Reynolds' despatches, numbered 13, 15, 16, 17, 18, 19, 20, 21, 23, and 24. No. 22, alluded to by Mr. Reynolds in his No. 23, which latter appears to be a continuation of the subject of the former, has not yet reached the Department.

It is to be regretted that Mr. Reynolds, in your absence, has undertaken to answer the note of Mr. Pacheco in relation to the "Amistad," of the 18th June last, in any other manner than simply to have informed him that he had complied with his request, and transmitted his communication to this Department. The "Amistad" case presents a grave and delicate question, which I had reserved for myself, to be treated at Washington with Mr. Calderon. No allusion to the subject was, therefore, ever made by me in corresponding with your Legation.

Besides, I have deemed it prudent to write as little as possible on this question, and to treat it chiefly in conversation with Mr. Calderon.

The elaborate answer of Mr. Reynolds to the Spanish Minister for Foreign Affairs may defeat this policy altogether, by opening a wide field for discussion. I trust that this may not be the result.

I am sorry to be obliged thus to criticise the conduct of Mr. Reynolds so soon after he had deserved the thanks of this Department for the ability and energy with which he conducted the case of the "Carmelita." His apology, however, may be found in his zeal to serve his country.

You may, in conversation, assure the Spanish Minister for Foreign Affairs that this Government will use all proper means to obtain the "Amistad" appropriation from Congress. Any attempt, however, upon the part of Spain to withhold the interest due to American claimants under the Convention of the 17th February, 1834, for the purpose of applying the money to the

¹ MSS. Department of State, Instructions, Spain, XIV. 241.

payment of the Amistad Spanish claimants, would be resisted by this Government, and might in the end endanger those friendly relations with Spain which it is our sincere desire to cherish and perpetuate. That we have already done every thing in our power to settle the "Amistad" case, in a manner just in itself and satisfactory to Spain, will appear conclusively from my note to General McKay, the Chairman of the Committee of Ways and Means of the House of Representatives, of the 2nd March, 1847, and that to Mr. Calderon of 17th March; copies of which are herewith transmitted.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. HARRIS.¹

No. 13

DEPARTMENT OF STATE,

WASHINGTON, 30th September 1847.

To W. A. HARRIS, ESQUIRE,
etc., etc., etc.

SIR:

Your despatches Nos. 13, 14, 15, accompanied by your correspondence with Lord Howden and Count Walewski, the British and French Plenipotentiaries, have been received. Numbers 10, 11, and 12 have not yet reached the Department. The intelligence that the British squadron had been directed to discontinue the blockade is gratifying. This measure, it is to be hoped, will ere long be followed by the discontinuance of the blockade on the part of France, and the entire removal of every impediment to the free and fair trade of neutral States with the Argentine Confederation. The light which you have thrown upon the subject has enabled us to appreciate the objects and motives of the Government within the City of Monte Video, in desiring to force all foreign commerce with Buenos Ayres to pass through their Port.

I am, Sir, very respectfully, your obedient servant,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Argentine Republic, XV. 35.

TO MR. TRIST.¹

(No. 5.)

DEPARTMENT OF STATE,

WASHINGTON, 6th October, 1847.

SIR: On the 2nd instant there was received at this Department from Vera Cruz a printed document in Spanish, consisting of eight quarto pages and entitled "Contestaciones habidas entre el Supremo Gobierno Mexicano, el General en Jefe del ejercito Americano, y el Comisionado de los Estados Unidos." This purports to give a history, in detail, of the origin, progress and unsuccessful termination of your negotiations with the Mexican Commissioners. The counter project of the Mexican Government is indeed, under all the circumstances, a most extraordinary document. Its extravagance proves conclusively that they were insincere in appointing Commissioners to treat for peace, and that the armistice and subsequent negotiations were intended merely to gain time. They must have known that the Government of the United States never would surrender either the territory between the Nueces and the Rio Grande, or New Mexico or any portion of Upper California; never would indemnify Mexican citizens for injuries they may have sustained by our troops in the prosecution of the present just and necessary war; and never could, without dishonor, suffer the Mexican Government to levy new duties on goods imported into ports now in our actual possession which had already paid duties to the United States. To propose such terms was a mere mockery. And here I ought to observe in justice to yourself, that we do not believe there is any truth in the assertion of the Mexican Commissioners that you had proposed, if the other terms of the Treaty were made satisfactory, to refer to your Government, "with some hope of a good result," the question of surrendering to Mexico that portion of the sovereign State of Texas between the Nueces and the Rio Grande, or any part of the Upper California.

Your original instructions were framed in the spirit of forbearance and moderation. It was hoped that after the surrender of Vera Cruz and the Castle of San Juan d'Ulloa, the Mexican Government would be willing to listen to the counsels of peace. The terms, therefore, to which you were authorized to accede were of the most liberal character, considering our just claims

¹ MSS. Department of State, Instructions, Mexico, XVI. 75; S. Ex. Doc. 52, 30 Cong. 1 Sess. 91; S. Ex. Doc. 60, 30 Cong. 1 Sess. 54; H. Ex. Doc. 69, 30 Cong. 1 Sess. 54.

on Mexico and our success in the war. New Mexico, the Californias, several of the Northern States and most of the important ports of Mexico were then in our possession; and yet we were at that time willing freely to surrender most of these conquests and even to make an ample compensation for those which we retained. Circumstances have entirely changed since the date of your original instructions. A vast amount of treasure has since been expended, and what is of infinitely more value, the lives of a great number of our most valuable citizens have been sacrificed in the prosecution of the war.

In the annals of history never has there been a war conducted in the same manner by invading forces. Instead of levying military contributions for the support of our armies in the heart of the enemy's country, we have paid fair and even extravagant prices for all the supplies which we have received. We have not only held sacred the private property of the Mexicans, but on several occasions have fed their famishing soldiers and bound up their wounds. And what has been the return? Treachery and cruelty have done their worst against us. Our citizens have been murdered and their dead bodies mutilated in cold blood by bands of savage and cowardly guerillas; and the parole of honor, sacred in all civilized warfare, has been habitually forfeited by Mexican officers and soldiers. Those paroled at Vera Cruz have fought against us at Cerro Gordo; and those paroled at Cerro Gordo have doubtless been in the ranks of the enemy in the battles so glorious to our arms at and near the City of Mexico.

After the battle of Cerro Gordo, the President entertained serious thoughts of modifying your instructions at least so far as greatly to reduce the maximum sums which you were authorized to pay for portions of the Mexican territory; but wishing to afford to the world an example of continued moderation and forbearance in the midst of victory, he suffered them to remain unchanged. And what has been the consequence? After a series of brilliant victories, when our troops were at the gates of the capital and it was completely in our power, the Mexican Government have not only rejected your liberal offers, but have insulted our country by proposing terms the acceptance of which would degrade us in the eyes of the world and be justly condemned by the whole American people. They must attribute our liberality to fear, or they must take courage from our supposed political divisions. Some such cause is necessary to account for their strange infatuation.

In this state of affairs, the President, believing that your continued presence with the army can be productive of no good, but may do much harm by encouraging the delusive hopes and false impressions of the Mexicans, has directed me to recall you from your mission and to instruct you to return to the United States by the first safe opportunity. He has determined not to make another offer to treat with the Mexican Government, though he will be always ready to receive and consider their proposals. They must now first sue for peace. What terms the President may be willing to grant them will depend upon the future events of the war and the amount of the precious blood of our fellow-citizens and the treasure which shall in the meantime have been expended.

Should the Mexican Government desire hereafter to open negotiations or to propose terms of peace, their overtures will be immediately transmitted to Washington by the commanding General, where they will receive the prompt consideration of the President.

Should you have concluded a Treaty before this despatch shall reach you, which is not anticipated, you will bring this Treaty with you to the United States for the consideration of the President; but should you, upon its arrival, be actually engaged in negotiations with Mexican Commissioners, these must be immediately suspended, but you will inform them that the terms which they may have proposed, or shall propose, will be promptly submitted to the President on your return. You are not to delay your departure, however, awaiting the communication of any terms from these Commissioners for the purpose of bringing them to the United States.

I am, Sir, very respectfully, Your obedient servant,
JAMES BUCHANAN.

To NICHOLAS P. TRIST, ESQUIRE,
&c., &c., &c.

TO MR. WARD.¹

DEPT. OF STATE,

7 Oct., 1847.

CHARLES WARD, ESQR.

U. S. Consul, Zanzibar.

SIR,

Your despatch No. 15, with the accompanying documents, has been received.

A letter from his Highness the Sultan, addressed to the President, has since been received, in which he urges an alteration in the terms of the existing Treaty, by which American merchants may be forbidden "to go to Msisima;" claiming that "during one hundred years, no persons but natives of Zanzibar have been in the habit of going there." I transmit herewith a reply from the President, on that subject, addressed to the Sultan, explanatory of the reasons which forbid him to interfere in this matter; & of the peculiar form of our Government, which restrains the powers of the Executive in regard to treaties. This you will deliver to him in person, with such remarks as may be proper, & calculated to inspire him with a conviction that, in declining to accede to his request, the President earnestly desires in no respect to impair the very friendly relations which so happily subsist between his Highness & this Government. You are also at liberty to state, that, whilst the President cannot restrain American merchants from the enjoyment of Commercial privileges secured to them by treaty, which under our government constitutes a portion of the supreme law of the land, you have been instructed to use your best efforts to render their intercourse with that portion of his dominions as unobjectionable as possible. Such other remarks as may tend to render your interview acceptable will, naturally, occur to you.

In regard to the question submitted to you, by the Sultan, respecting reciprocal injuries done by the citizens of the two countries to each other, including cases of murder, to which he specially refers, your predecessor was instructed, that, "no provision having been made for them in the existing Treaty, the desire of his Majesty that such cases should be settled by his own laws, in the presence of the American Consul, appears to be just & reasonable; & no ground of objection is seen to it." In these

¹ MSS. Department of State, Despatches to Consuls, X. 444.

views the present Executive concurs. But, in reiterating them to the Sultan, you can properly avail yourself of the occasion to apply a just construction of them to the case of his late appeal to you, in reference to a subject alleged to have been murdered by an American citizen, & the indemnity which he claims, in consequence thereof. The presence of the American Consul would but little avail, if he is restrained from cross-examining the witnesses produced against the accused, or examining witnesses in his defence. His Highness cannot fail to be satisfied that, in acceding to his own proposition that cases of this kind shall be tried by his own laws, in the presence of the American Consul, it was an implied understanding, that the Consul should be permitted, as the Representative of his Government, by all just & proper means to establish, if possible, the innocence of the accused. In the case now submitted to the Government, at his special instance, the President has reason to complain that the manifest spirit of this agreement has been violated. His Highness will, I trust, therefore, see the injustice, in this case, of demanding the fine. In a faithful execution, by both parties, of the present arrangement, the Sultan cannot fail, on reflection, to perceive that he has a tribunal for such cases which will secure the punishment of the guilty & the acquittal of the innocent, & will, at the same time, preserve all his own rights, without impairing those he ought to concede to us. By a proper use of these arguments & those which naturally result from them, I feel assured, you will be able to satisfy the Sultan that he ought not to press any further demand in the case referred to. Your conduct, in reference thereto, is fully approved by this Department. No necessity seems to exist for this Government, at this time, to interfere in the question whether the Banyan & Hindoo merchants are subjects of his Highness or of Great Britain. If, as you anticipate, a difficulty should arise involving this point, you will report the case to this Department, with a full statement of the facts.

In regard to the application of the American Merchants to yourself, dated on the 1st of March last, & by you transmitted to this Department, it is impossible for this Government to prevent the Sultan from trading with the United States, on his own account, should he think proper. It would be a subject of regret should he engage in this trade; because he will have advantages in conducting it with which no private Merchant could successfully compete. Still, the Government, without violating the existing Treaty, could not interfere.

A copy of the letter from the President to the Sultan is herewith enclosed.

Your despatches numbered 13 to 18, inclusive, have been received.

I am, Sir, respectfully

Your obt. Servant

JAMES BUCHANAN.

TO MR. WALKER.¹

DEPARTMENT OF STATE,

WASHINGTON, 8th October, 1847.

HON. ROBERT J. WALKER,

Secretary of the Treasury.

SIR:

I have the honor to communicate and to invite your attention to a translation of a note under date of the 6th instant, addressed to this Department by Mr. Leal, the Chargé d'Affaires of Brazil, inquiring as to the correctness of a report that it was the intention of the Treasury Department to order discriminating duties of tonnage to be levied on Brazilian vessels in the ports of the United States and on coffee imported therein.

Our treaty with Brazil expired on the 12th December, 1841, by virtue of a notice from the Brazilian Chargé d'Affaires to this Department, dated 26th March, 1840. Since its termination, however, I believe that the Brazilian government have acted in the same manner in regard to our commerce and navigation as though it still continued to exist. There has never been a complaint to my knowledge that they have levied higher duties on American tonnage and imports than are levied on Brazilian vessels or their cargoes.

To collect, without any previous notice, a discriminating duty of 20 per cent. on coffee imported into the United States in Brazilian vessels, and discriminating tonnage duties, would in its effects be very injurious to our trade with Brazil. The direct consequences, under their existing laws, would be the imposition of heavy discriminating duties of tonnage and impost on American vessels and their cargoes entering Brazilian ports. As nearly the whole trade between the two countries is in our hands, this would be a policy very injurious to ourselves. Besides, such a

¹ MSS. Department of State, 36 Domestic Letters, 317.

change, at the present moment, when we have serious unadjusted difficulties with the Government of Brazil, would be liable to a misconstruction on their part.

I have the honor, &c.

JAMES BUCHANAN.

TO MR. DONELSON.¹

(No. 12.)

DEPARTMENT OF STATE,

WASHINGTON, 12th October, 1847.

ANDREW J. DONELSON, ESQRE.,
&c., &c., Berlin.

SIR:

Your despatches to No. 41, inclusive, have been received.

My despatch to you, No. 11, of the 7th August last, was written at Old Point Comfort. I left this city on the morning of the 4th August, and the Chief Clerk delivered to me your despatch No. 32, of the 12th July, which had been received on that morning; but had overlooked your number 31, to which was annexed the copy of your note to Baron Canitz, of the 8th July, 1847, although it was received at the same time. My despatch, therefore, of the 7th August, was written without any knowledge of the existence of your number 31; and this is the reason for inserting in it the following paragraph.

"From your letter of the 24th June, I had confidently expected that your last despatch would have been accompanied by a copy of your communication to Baron Canitz; and it was this expectation alone which prevented me from answering that letter by the last Steamer."

The despatch was prepared at Old Point Comfort; because circumstances imperiously required that you should be advised of the determination of the President with as little delay as possible. It ought to have been forwarded by the Packet of the 16th August; and I returned to Washington under the conviction that this had been done. Greatly to my surprise, some weeks afterwards, I was informed by the appropriate Clerk that he had inadvertently omitted to send it; and it was then immediately forwarded to Boston for the Packet of the 16th September, and when it was too late to enable me to make this explanation. I sin-

¹ MSS. Department of State, Instructions, Prussia, XIV. 120.

cerely hope that this delay of one month may not have occasioned you any serious embarrassment.

The Convention for the mutual abolition of the Droit d'aubaine and duties on emigration, signed by Mr. Wheaton on the 2nd May, of last year, with the Plenipotentiary of Hesse-Cassel, was received on the 3rd and communicated on the 6th June, 1846, to the Senate, with Mr. Wheaton's despatch No. 284, of the 2nd of May. It has not been acted upon by that Body. The reason of this is not known to the Department; but you will perceive that, by its 6th Article, the Convention became void on the 2nd of August last.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. LEAL.¹

DEPARTMENT OF STATE,

WASHINGTON, 12th October, 1847.

To SENHOR DOM FELIPPE JOSÉ PEREIRA LEAL:

The Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note of Mr. Leal, Chargé d'Affaires of His Majesty, the Emperor of Brazil, under date the 6th instant, inquiring as to the correctness of a report which had appeared in some newspapers, that it was the intention of this government to direct discriminating duties of tonnage and impost to be levied upon such vessels of Brazil and their cargoes as might in future enter the ports of this country.

In reply, the Undersigned has the honor to acquaint Mr. Leal that a copy of his note was communicated to the Secretary of the Treasury, a transcript of whose answer to the letter from this Department which accompanied it is herewith enclosed for the information of Mr. Leal.

The Undersigned avails himself of this occasion to offer to Mr. Leal renewed assurances of his distinguished consideration.

JAMES BUCHANAN.

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 65.

TO MR. CARR.¹

(No. 30.)

DEPARTMENT OF STATE,
WASHINGTON, 15th October, 1847.DABNEY S. CARR, ESQRE.,
&c., &c., Constantinople.

SIR:

I have the honor to acknowledge the receipt of your despatches, Nos. 2, 3, 5 and 6, and one of the 7th August, which it is supposed was intended to be numbered 4. Nos. 5 and 6, of the 24th and 26th August, were received on the 5th instant.

I now transmit a copy of a letter addressed to me by the Secretary of the Navy, on the 13th instant, and a copy of a communication made to him on the 8th of last May, by Lieutenant W. F. Lynch of the U. S. Navy, which accompanied his letter.

From this correspondence you will perceive that Lieutenant Lynch has asked the permission and authority of his Government to circumnavigate and explore the Lake Asphaltites, or Dead Sea, and that his application has been favorably considered. In furtherance of the object in view, the Secretary of the Navy has called for the intervention of this Department, in obtaining the sanction of the Turkish Government.

As this project is purely in the interest of science, and for the gratification of an enlightened curiosity, it is not conceived that the slightest objection will be raised by the Turkish Government in opposition to it, or that the request will not be promptly granted. You will, accordingly, make a proper application to the Sultan for a firman for Lieutenant Lynch and his exploring party.

This despatch will be placed in the hands of Lieutenant Lynch, who is shortly to proceed to Smyrna, in command of the U. S. Store-Ship "Supply." He will transmit or deliver it, and will apprise you, in the former case, of the place to which the Firman, when obtained, may be forwarded by you to him.

In compliance with the suggestion made by you, in your No. 3, I procured soon after its receipt, and caused to be handsomely bound and lettered, the Indian Biographies of Hall & McKenney, and of Catlin,—the former in three volumes, and the latter in one,—to be presented by you to the Sultan, in such

¹ MSS. Department of State, Instructions, Turkey, I. 324.

manner as you will ascertain to be most agreeable to His Highness. I have determined to commit these volumes, also, to the care of Lieutenant Lynch. He will be directed, in the event of his not going to Constantinople, to send them to you by the first safe and convenient opportunity.

It is highly gratifying to me to learn that Dr.'s Davis and Smith have given such entire satisfaction to the Sultan.

Information respecting the blockade of a portion of the Coast of Albania by the Turkish Naval and land forces, has been officially published in the Union of the 8th instant, conformably with the notification given by the Porte, and communicated in your despatch of the 7th of August last. The attention of the Navy Department has been called to the subject of sending a naval force to the Levant to protect our commerce.

I have not yet been able to find time to examine your despatch of the 24th August, in relation to the case of Mr. Oscanyan.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. CRAMPTON.¹

DEPARTMENT OF STATE,

WASHINGTON, 15th Octr., 1847.

JOHN F. CRAMPTON, ESQRE.,

&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of the note which you addressed to me on the 12th of July last, referring to previous correspondence with this Department, and enclosing the copy of a letter of instructions from Her Majesty's Principal Secretary of State for Foreign Affairs to Mr. Pakenham, on the subject of the claims of certain British subjects, holders of lands now belonging to the State of Maine, who seek to be confirmed in their rights of possession in fulfilment of the provisions of the fourth article of the treaty of Washington.

It appears that Francis Watson and eight other British subjects have obtained grants of land from the Government of New Brunswick, a part of which, it has been ascertained by the

¹ MSS. Department of State, Notes to Great Britain, VII. 171.

Commissioners appointed to mark the boundary line "from the source of the St. Croix to the river St. John," under the treaty of Washington, was within the limits of the State of Maine.

And here it may be observed that no change whatever was made in the old line between these two points which had been "run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent." The sole duty of the Commissioners in this respect was "to mark the line above described." (Vide the first and sixth articles of the treaty of Washington.)

It appears that the authorities of New Brunswick, not so well acquainted with the position of this old line as those of Maine, have made grants of land west of it and within the limits of that State; whilst it would seem from the documents you have sent me, (I possess information from no other source,) that the authorities of Maine have made grants of the same land up to the true line as ascertained by the Commissioners, and embracing a small portion of the land granted by New Brunswick.

In this state of the case, one Josiah Little has brought an ejectment for that portion of the tract claimed by him, situate within the limits of Maine, against Francis Watson, claiming the same, as Mr. Watson asserts, "under grant from the State of Maine or the American Government." (The latter it cannot be, as the Government of the United States have never held any interest in these lands.) In this action the question will be decided judicially whether the grant from Maine or that from New Brunswick confers the better title.

Under the 4th article of the treaty of Washington, "All grants of land heretofore made by either party, within the limits of the territory which by this treaty falls within the dominions of the other party, shall be held valid, ratified, and confirmed to the persons in possession under such grants, to the same extent as if such territory had by this treaty fallen within the dominions of the party by whom such grants were made."

Mr. Watson, in defending the ejectment, will have the full benefit of this article of the treaty; and if he should be dissatisfied with the construction which the Judiciary of Maine may place upon it, an appeal can be taken to the Supreme Court of the United States.

But Lord Palmerston, representing the poverty of Mr. Watson and the other parties, and their inability "to incur the expense of prosecuting or defending suits at law," expresses the

confidence of Her Majesty's Government "that the Government of the United States will cause the necessary steps to be taken in order that those parties may, in conformity with the terms of the 4th article of the treaty of Washington, be dealt with upon the most liberal principles, and that their titles to the lands held by them may be legally confirmed without their being obliged to incur expense for that purpose."

These titles have been already "*legally confirmed*," so far as the treaty can confirm them. The grants from New Brunswick are rendered perfect and absolute under its terms. They require no other confirmation. By our Constitution this treaty is "the supreme law of the land; and the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding."

From the very nature both of the British and American Governments, the 4th article of the treaty must be carried into execution by the Judicial, and not by the Executive, branch of the Government. Neither in the one country nor the other could the Executive prevent their citizens or subjects from commencing suits at law to contest their private rights, nor interfere with the decisions of their courts of justice. If, on the trial of the case of Little v. Watson, the courts of Maine should give full and fair effect to the 4th article of the treaty, then the obligations imposed by it on the United States will have been fairly executed. This Government is not bound by the treaty to make itself substantially the party, in place of Mr. Watson, to the ejectment brought against him, nor to institute and prosecute actions of trespass in behalf of the other petitioners. Our courts of justice are always open; and they are the appropriate tribunals to afford redress in such cases.

Should any grantee of lands from the State of Maine, situate, since the running of the line, within the British Provinces, ask me to obtain similar redress from the British Government, I would refer him at once to a British court of justice, as the appropriate tribunal for the execution of the treaty. If, after he had made this appeal, produced his grant, and prosecuted his suit with proper diligence, the court should fail to give due effect to the 4th article of the treaty, (which is not to be presumed,) then, and not till then, would I seek redress from the British Government.

At present the question is purely a judicial question; and these petitioners are on the same footing with all other indi-

viduals. If unjust claims have been made, unlawful trespasses committed, or unfounded suits brought against them, they must, like all other persons, resort to the courts of justice for redress. Even if this Government would, it could not, under our Constitution and laws, invade the proper province of the Judiciary.

I have the honor to be, with high consideration, Sir, your obedient servant,

JAMES BUCHANAN.

TO MR. MASON.¹

DEPARTMENT OF STATE,

WASHINGTON, 15th October, 1847.

HON. JOHN Y. MASON,
Secretary of the Navy.

SIR:

I have the honor to acknowledge the receipt of your letter of the 13th inst., and its enclosure, on the subject of a project by Lieut. W. F. Lynch for an exploration of the Dead Sea and its shores, to be conducted by him, and I have great pleasure in transmitting, enclosed, a copy of a portion of a despatch in relation to this enterprise which I have this day written to Mr. Carr, our Minister to Constantinople.

This Department gladly avails itself of the offer of Lieut. Lynch's proffered service, and will send to you, to be committed to his care, as soon as they can be got ready, a despatch for Mr. Carr, and a box containing bound volumes of Hall and McKenney's and Catlin's Indian Biographies, intended as a present for the Sultan. Lieut. Lynch will have the goodness, in case he does not go to Constantinople himself, to forward both to Mr. Carr from Smyrna, by the first safe opportunity, and to acquaint him, at the same time, with his wishes in regard to the firman.

I refer to you, herewith, a despatch and accompanying papers from Mr. Carr, dated 28th August, in which he speaks of the necessity, believed by him to exist, and to which he has alluded in former despatches, for a naval force in the Levant for the protection of our commerce. Be pleased to return the despatch after perusing it.

I am, &c.,

JAMES BUCHANAN.

¹ MSS. Department of State, 36 Domestic Letters, 320.

FROM PRESIDENT POLK.¹*Confidential.*

[October 16, 1847.]

MY DR. SIR:

I have prepared the accompanying rough draft in haste. It contains the general outline of my views. Will you examine it, make any modifications, suggestions, or transpositions of the topics treated of you choose, and indeed I will be obliged to you, if your leisure will permit, if you will make an entire new draft, embodying your own views. From the two, the paper as it may be finally agreed upon can be prepared. *Be careful to let no human being see the draft in my hand-writing*, & when you are done with them, I will be obliged to you to return the sheets to me. I wish to get this weighty matter off my mind, & the sooner you can prepare your draft the more gratified I will be.

Most faithfully your friend &c.

JAMES K. POLK.

WASHINGTON, Oct. 16th 1847.

HON. JAS. BUCHANAN.

TO MR. CAMPBELL.²

DEPT. OF STATE,

R. B. CAMPBELL ESQR.

Oct. 20, 1847.

U. S. Consul, Havana.

SIR,

The Post Master General has contracted with M. C. Moredecai, of Charleston, S. C., to carry a mail twice each month, by a large steam packet, between that port & the Havana, via Key West. It is expected that this line will be ready to commence running early in the Spring. In reference to this enterprise, in which he takes a lively interest, it affords me great pleasure to transmit the enclosed letter from our mutual friend, Mr. Rhett, & to ask for it your earliest attention. Our Government is deeply interested in the success of the proposed line of Steamers; & it is unnecessary to specify the great commercial advantages to the trade of Cuba which must result from it. It is therefore presumed that the Spanish Government will be disposed to grant every facility, in its power, to this undertaking; and this Government, always animated by the most friendly disposition to Spain, will reciprocate any advantages which her Government may bestow upon it.

¹ Buchanan Papers, Historical Society of Pennsylvania.² MSS. Department of State, Despatches to Consuls, X. 447.

After consulting with the Post Master General, I entertain no doubt that he will agree that a Spanish mail, in charge of a Spanish agent, shall pass through the U. S. on the way to Europe, unbroken by this Government; and that in this respect privileges similar to those granted to Great Britain, in her intercourse with Canada, would also be granted to Spain. It is confidently asserted that such an arrangement would expedite the communication between Madrid & Havana from a week to ten days earlier than the present.

The Government of Cuba will not, I feel confident, levy a tax upon the coal which may be deposited at Havana for the consumption of these Steamers.

You are no doubt aware, that under the Act of Augt. 3d, 1846, Spanish vessels pay no discriminating tonnage duties in the ports of the U. S., "except those coming from Cuba, or Porto Rico." The present established & reciprocal duties on the former are five cents a ton. In view of the great benefits which are expected to result to the trade of Cuba from the establishment of this line of Steamers, it may well be contended that they ought to be exempt from any tonnage duty. If this be denied, it certainly will be deemed reasonable to ask that, in this respect, they be put on the same footing with vessels trading between the U. S. & Spain. Under any circumstances, it may be urged with peculiar force that, whatever be the duty, it should be estimated according to their freight capacity.

We are not apprised of the terms which have been granted to the British Mail Steamers in the port of Havana; but we confidently expect that the Spanish Government will not hesitate to grant to American Steamers the same privileges, whatever they may be.

I shall address a despatch to Mr. Saunders on the subject, so that in case you should fail in effecting a satisfactory arrangement with the Authorities of Cuba, he may appeal to the Government at Madrid. With a view to that object, it may be well for you to communicate with him on the subject.

I am, Sir, respectfully

Your obt. Servant

JAMES BUCHANAN.

TO MR. LEAL.¹

DEPARTMENT OF STATE,
WASHINGTON, 22nd October, 1847.

TO SENHOR FELIPPE JOSÉ PEREIRA LEAL,
&c. &c. &c.

The Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note under date the 13th instant from Mr. Leal, Chargé d'Affaires of His Majesty the Emperor of Brazil, accompanied by a copy of the 20th and 21st articles of the Decree of the Brazilian Government of the 12th August, 1844, which authorize the imposition of discriminating duties upon the vessels and their cargoes, entering Brazilian ports, of such foreign nation as may charge like duties upon Brazilian vessels and their cargoes in its ports.

Mr. Leal remarks that the information communicated with the note of the Undersigned to him of the 12th instant will relieve the Brazilian Government from the necessity of applying these provisions to the vessels of the United States and their cargoes. Mr. Leal will however notice that the Secretary of the Treasury, in his letter to this Department of the 11th instant, has suggested the expediency of renewing the stipulations of the Treaty of 12th December, 1828, in a more formal manner. This suggestion has doubtless been occasioned by the Act of Congress of the 30th of July, 1846, pursuant to which coffee imported into the United States "in foreign vessels which are not entitled by reciprocal treaties to be exempt from discriminating duties, tonnage, and other charges," is liable to pay a duty of twenty per cent. on its value. The Treaty above referred to, "in all the parts relating to commerce and navigation," having expired on the 12th December, 1841, through the act of Brazil, the commercial intercourse between the two countries must for the present be regulated by their respective laws.

By the Act of Congress approved 24th May, 1828, the President is authorized, upon satisfactory evidence being given to him by the government of any foreign nation "that no discriminating duties of tonnage or impost are imposed or levied in the ports of the said nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandize imported in the same from the United States or

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 66.

from any foreign country, to issue his proclamation declaring that the foreign discriminating duties of tonnage and impost, within the United States, are and shall be suspended and discontinued, so far as respects the vessels of the said foreign nation and the produce, manufactures, or merchandize imported into the United States in the same, from the said foreign nation, or from any other foreign country; the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, as aforesaid, shall continue, and no longer."

The President has, in many instances, issued his proclamation by virtue of this Act, with reference to vessels and their cargoes of other nations with which the United States had no Treaty, and he will cheerfully issue it with reference to those of Brazil, whenever the Brazilian Government shall comply with the condition which is required.

If, therefore, Mr. Leal can state in behalf of his Government, "*that no discriminating duties of tonnage or impost are imposed or levied in the ports of Brazil upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandize imported in the same from the United States, or from any foreign country,*" this will be accepted as a sufficient warrant for the President to issue his Proclamation in favor of Brazilian vessels and their cargoes, pursuant to the Act of 1828. This arrangement when perfected will be equivalent to a Treaty, and will continue until the Government of Brazil shall cease to treat vessels of the United States and their cargoes upon the same footing with Brazilian vessels.

The Undersigned avails himself of this occasion to offer to Mr. Leal renewed assurances of his distinguished consideration.

JAMES BUCHANAN.

TO MR. TRIST.¹

(No. 6.)

DEPARTMENT OF STATE,

WASHINGTON, 25th October, 1847.

SIR: Your despatches, either in original or duplicate, to No. 16, inclusive, with the exception of Nos. 5 & 8, have been received at this Department.

From your No. 15, of the 4th September, received on the 21st instant, it appears that you had offered to the Mexican Commissioners that if they would propose to you to establish the boundary between the two Republics by a line by which the United States would surrender that portion of the State of Texas between the Rio Grande and the Nueces, and also that portion of Upper California South of the thirty-third parallel of latitude between the Colorado and the Pacific Ocean, you would transmit such a proposition proceeding from them to Washington, and would propose to General Scott to continue the then existing armistice until you should receive the answer of your Government.

You will have learned from my despatch No. 5, of the 6th instant, that we did not believe there was any truth in the statement of the Mexican Commissioners that you had made such a proposal. As this fact is now placed beyond a doubt, the President has instructed me to express to you his profound regret that you should have gone so far beyond the carefully considered ultimatum to which you were limited by your instructions.

The State of Texas is in the exercise of peaceable and undisturbed jurisdiction over the country between the Nueces and the Rio Grande. She has made extensive grants of land within its limits; divided it into counties, which have been represented in her Convention and Legislative assemblies; established Courts of Justice therein; and, in short, has exercised the same sovereign rights over it as over any other portion of her territory.

Congress, acting upon these incontestable facts, as well as upon the clear right of Texas to extend to the Rio Grande, in December, 1845, created a port of delivery West of the Nueces at Corpus Christi, and in May, 1846, established Post Routes between those two rivers. This region also constitutes a part of one of the Congressional Districts of Texas, and its people are now represented in the Congress of the United States.

¹ MSS. Department of State, Instructions, Mexico, XVI. 79; S. Ex. Doc. 52, 30 Cong. 1 Sess. 94; H. Ex. Doc. 60, 30 Cong. 1 Sess. 56; H. Ex. Doc. 69, 30 Cong. 1 Sess. 56.

Under these circumstances, the President could not for a single moment entertain the question of surrendering that portion of Texas, even if this were practicable. But such is not the case. Considering the enterprising and energetic character of the American people, it would be impossible to expel by force the inhabitants between the Nueces and the Rio Grande from their possessions and to convert this territory into a desert for the security of the Mexican frontier.

The President has, also, directed me to express his regret that you should have been willing to entertain the question of surrendering any portion of Upper California to Mexico. By running the division line from Colorado to the Pacific along the thirty-third parallel of latitude, the bay and harbor of San Diego would be restored to the Mexican Republic. This port, being nearly five degrees further South, is for every commercial purpose of nearly equal importance to the United States with that of San Francisco. It was to secure to us the bay and harbor of San Diego beyond all question and to prevent the Mexican Government from hereafter contesting the correctness of the division line between Upper and Lower California as delineated on the map which you carried with you, that your original instructions directed that if you could not obtain Lower California, the 4th article of the Projet should in terms fix this line as running "north of the parallel of 32° and South of San Miguel to the Pacific Ocean."

To have arrested our victorious army at the gates of the Capital for forty or fifty days, and thus to have afforded the Mexicans an opportunity to recover from their panic, to embody their scattered forces, and to prepare for further resistance, in order that in the mean time you might refer such proposals to your Government, would, in the President's opinion, have been truly unfortunate.

With these considerations in view, the President has directed me to reiterate your recall.

The date of the last despatch received at the War Department from General Scott is the 4th June. The President is now becoming apprehensive that he may not receive despatches from him before the meeting of Congress.

I transmit herewith a copy in triplicate of my despatch No. 5. Yours, very respectfully,

JAMES BUCHANAN.

To NICHOLAS P. TRIST, ESQUIRE,
&c., &c., &c.

TO MR. TRIST.¹

WASHINGTON 27 October 1847.

MY DEAR SIR /

Mr. Crampton has kindly agreed to send this letter by the British courier from Vera Cruz to Mexico; & this expedient has been adopted in the apprehension that all others may fail.

Within two or three days after the receipt of the "Contestaciones" &c. published by the Mexican authorities, the President directed me to recall you from your mission, & this was done by a Despatch dated on the 6th Instant, of which four copies have been sent to you by different channels. Since the receipt of your own Despatches to No. 16, inclusive, & their confirmation of the Mexican statement (which we did not at the first believe) that you had offered to submit to your Government a proposal from the Mexican Commissioners, to surrender that portion of Texas between the Rio Grande & the Nueces, & also that portion of Upper California including the Bay & Harbor of San Diego, south of the parallel of 33°, & recommend to General Scott to continue the armistice until you could hear from Washington:—the President has instructed me to reiterate your recall in a second Despatch, which was sent a few days ago. On his part, there is every disposition, I believe, to treat you kindly; yet he was much dissatisfied with this proposal.

My Despatch of the 6th October directed that if you had made a Treaty before its receipt you should bring it with you; if not, that all negotiations should be arrested upon its receipt; and that you should inform the Mexican Commissioners that you would submit any of their propositions then pending or any others they might be disposed to make to the President immediately upon your return. You are not, however, to delay your departure awaiting such propositions; but are directed to return as soon as a safe opportunity may offer.

¹ Buchanan Papers, private collection. On the back of the copy of this letter, which is in Buchanan's own handwriting, there appears the following, also in his handwriting:

"October 27, '47. Copy of that part of my letter relating to his official duties sent to Mr. Trist through Mr. Crampton."

"October 27, '47. I put the letter in the P. O. myself. Mr. C. enclosed mine in one directed to the B. C. Mr. Giffard at Vera Cruz. This was enclosed by Gov: Marcy to Col: Wilson."

TO MR. SAUNDERS.¹

(No. 16.)

DEPARTMENT OF STATE,
WASHINGTON, 28th October, 1847.ROMULUS M. SAUNDERS, ESQRE.,
&c., &c., Madrid.

SIR:

The Postmaster General has contracted with M. A. Mordecai, of Charleston, South Carolina, for the consideration of \$45,000 per annum, to run a mail twice in each month by large Steam-Packets between that port and the Havana, via Key West. It is expected that this line will be ready to commence running early next Spring. The great commercial advantages which will result to the trade of Cuba from such an enterprise must be apparent. For this reason we presume that the Spanish Government will be disposed to grant to it all reasonable facilities. This Government, always animated by the most friendly disposition towards Spain, is willing to reciprocate any advantages which her Government may bestow upon this undertaking. The Postmaster General will agree that a Spanish mail, under the care of a Spanish agent, shall pass through the United States on the way to Europe unbroken by our Government, and so vice versa; and that, in this respect, privileges similar to those now granted to Great Britain, in her communication with Canada, shall be accorded to Spain. It is confidently asserted that such an arrangement will expedite the communication between Madrid and the Havana one week or ten days.

I am not informed what are the privileges which the British Mail Steamers now enjoy at the Havana. You can procure this information at Madrid; and I presume the Spanish Government will not hesitate to grant the Charleston line the same advantages, whatever these may be. Indeed, from a conversation with Mr. Calderon yesterday, I suppose there will not be much difficulty in accomplishing this object. I shall be glad to learn at your earliest convenience on what terms British Mail Steamers now enter the port of Havana; and what, if any, tonnage duty they pay.

I presume it may be considered certain that tonnage duty will not be charged on more than the freight capacity of the Steamers; and that no import or export duties will be levied

¹ MSS. Department of State, Instructions, Spain, XIV. 243.

upon the coal which may be deposited at the Havana to be consumed exclusively in these vessels. But in view of the great advantages which must result to the trade of Cuba from the Charleston line, it is believed that if any tonnage duty whatever shall be levied, it ought to be reduced on the freight capacity of these steamers to five cents per ton, the rate now paid on Spanish vessels entering the Ports of the United States, "unless those coming from Cuba or Porto-Rico," and on American vessels entering the ports of old Spain. Vide the Act of Congress of August 3d, 1846, P. S. p. 78, sec. 3rd.

I have already written to General Campbell, our Consul at the Havana, on this subject, and have instructed him to correspond directly with you, should this become expedient.

As the line will commence running in the Spring, the proprietors desire in the mean time to transport and deposit a supply of coal at the Havana for the use of their Steamers, as soon as it shall be ascertained that it can be imported free from duty. Your early, as well as your earnest, attention is invited to this subject.

Since the date of my last despatch, the Department has received Mr. Reynolds' private and confidential letter of the 8th, and his despatch No. 22, of the 12th August; the former on the 22nd ultimo, and the latter on the 20th instant.

The duplicate volumes of the American Archives in the Legation may be returned hither whenever an opportunity offers by which no considerable expense may be incurred.

The Statutes at large come down to the 1st Session of the 29th Congress. The subsequent laws have been sent in pamphlet form; one series last October, and another in April of this year. I have directed another copy of the Laws of the last Session to be transmitted. Some of the volumes of Senate Documents have not yet been printed. They will be sent as soon as they are ready.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. BUTLER.¹

DEPARTMENT OF STATE,
WASHINGTON, October 29, 1847.

B. F. BUTLER, Esq.

U. S. Attorney, for Southern Dist. New York.

SIR:

I have received your favor of yesterday, announcing the decision of Judge Edmonds in the case of Metzger. This decision was most unexpected, and after all that has passed places this Government in a most embarrassing attitude towards that of France. It is to be deeply regretted that you had not fortified yourself in advance with an application and affidavit from the French Vice Consul, so as to have instantly arrested Metzger upon his discharge. Had Mr. Borg made objections, these could easily have been removed upon a suggestion to me. I presume, however, that, like myself, you were taken by surprise.

All that now remains is to appeal from the decision of Judge Edmonds to the Supreme Court of New York, and this you are instructed to do without delay. In justice to France, we must prosecute the case to the end of the law; and I cannot doubt, should it become necessary to resort to that tribunal, what will be the decision of the Supreme Court of the United States *in this particular case.*

I am, &c.,

JAMES BUCHANAN.

TO SEÑOR CALDERON DE LA BARCA.²

DEPARTMENT OF STATE,
WASHINGTON, 30th October, 1847.

DON A. CALDERON DE LA BARCA,

&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 28th instant, in which you advert to the fact that the coupons annexed to the inscriptions of the Convention of August 14th, 1834, have, by previous payments, become exhausted, and suggest, under instructions from your Government, that upon the

¹ MSS. Department of State, 36 Domestic Letters, 325.

² MSS. Department of State, Notes to Spanish Legation, VI. 164.

future payment of instalments, the order formerly given by the United States for the delivery of coupons be omitted as superfluous, and that it be expressly agreed between the parties that in lieu thereof the receipts given in quadruplicate, as heretofore, shall be so drawn as to declare the fact of the failure of the coupons and to set forth the year corresponding with each instalment which shall hereafter be paid by Spain to the United States.

Under the circumstances that have arisen I can perceive no objection whatever to the modification of form proposed by you, and I, therefore, lose no time in acquainting you with my acquiescence therein; and in adding that I am prepared to meet your wishes in this regard whenever you shall be pleased to inform me that you are ready to pay the instalment for the present year, due upon the 14th August last.

I am, Sir, with great consideration,
Your obedient servant,

JAMES BUCHANAN.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,
WASHINGTON, 3d Novr., 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have received your note of the 30th ultimo, on the subject of the recent discharge of Nicholas Lucien Metzger, a fugitive from the justice of France, by Judge Edmonds, of New York, from the custody of the Marshal of the United States, by whom he was held for the purpose of being surrendered to the proper French authorities, by virtue of the order of the President, under the convention between the two countries for the extradition of criminals.

You could not have been more surprised than I have been upon learning this decision, nor could you have regretted it with more sincerity. You have witnessed my continued efforts throughout the whole proceeding to secure the extradition of Metzger. Indeed, I believe I never addressed a letter to Mr. Butler, the District Attorney, upon the subject, which I have not submitted to your perusal. I am glad, therefore, to perceive

¹ MSS. Department of State, Notes to French Legation, VI. 107.

that in your note you have done justice to the sincerity of my sentiments upon this occasion.

You state correctly that I gave you the assurance that Metzger would not be permitted to escape, even if the decision of Judge Edmonds should be in favor of his enlargement—an event not anticipated either by you or myself. To be prepared, however, for its possible occurrence, I had given instructions to the District Attorney, so early as March last, to adopt every lawful means to prevent his escape. Under these circumstances, therefore, I deem it peculiarly unfortunate that Mr. Borg, the Vice Consul of France, should have refused to unite with Mr. Butler in applying, *instanter*, to the Circuit Court of the United States then actually in session, for a new warrant of arrest. This was the only possible means by which the escape of Metzger could have been prevented. Under the convention, it was indispensable that the French authorities should make the application for his arrest. This is all that would ever have been required from Mr. Borg, having determined myself, as you are aware, in consideration of the peculiar circumstances which had attended the case, to subject the Department to the trouble and expense of prosecuting any new proceeding until its final termination.

The moment was propitious—the Circuit Court was then open, composed, as it was, of two Judges, who, in different spheres of duty, had expressed opinions favorable to Metzger's extradition; and all that seemed to be wanting to complete success was the assent of Mr. Borg.

All that now remains is to adopt the only expedient left; and I have, therefore, instructed Mr. Butler, in reply to his letter of the 28th ultimo, (of which I transmit you a copy,) to appeal to the Supreme Court of New York from the decision of Judge Edmonds; that it was due to France to prosecute the case to the end of the law; and that I could not doubt what would be the final decision of the Supreme Court of the United States, should it become necessary to appeal to that tribunal.

In your note, after protesting against the act of discharging Metzger as "a flagrant violation of a treaty solemnly concluded and ratified," you inform me that you will "announce to your Government the inability of the Government of the United States, on such an occasion, to fulfil the engagements contracted by it, in virtue of the convention of the 9th November, 1843, and await its orders."

I can never admit the correctness of the severe judgment you have thought proper to pronounce against the power of this Government to execute the convention for extradition with France. It has both the will and the power faithfully to execute this and all other treaties; and bad faith has never been justly imputed to the United States since they became a nation.

It is very true, as you will admit, that free constitutional Governments, from their very nature, cannot, and ought not to, march with the certainty and celerity of despotism, where the personal rights of individuals are concerned. Our system of Government, Federal and State, is complex in its character, and secures to every inhabitant of the respective States the right, where his personal liberty is concerned, to appeal to the laws of the country for redress. The convention with France is, under the Federal Constitution, the supreme law of the land; but, like all other laws, it must be subjected to judicial construction, when private rights are involved. The great difficulties on the present occasion have resulted from an unaccountable omission in the convention itself. It has not designated the judges or magistrates to whom application shall be made—it has not provided in terms for the issuing of any warrant for the apprehension of the fugitives from justice; nay, it has not even expressly indicated any resort whatever to the Judiciary. All these important points have been left to doubt and to judicial construction. This is the more remarkable as our treaty with Great Britain, which clearly and expressly embraces all these objects, had been concluded more than a year before, and might have served as a precedent. Under the plain and specific terms of its eighth article, we have never encountered any serious embarrassment in carrying it into execution.

Indeed, the difficulty at the root of all subsequent difficulties in the case of Metzger was the mistake of the French authorities in applying for a warrant of arrest to a State and not a United States magistrate; just as though the convention with France had employed the same terms as the treaty with Great Britain.

With all these considerations in view, it is not quite correct to conclude from the individual case of Metzger, the like of which might have occurred under any Government, that the Government of the United States is incapable of executing its convention with France. The American people are peculiarly a law abiding people; and whenever the true construction of this convention shall have been settled by judicial authority, it will be

executed, both in its letter and in its spirit, without impediment or obstruction. This object might have been promptly accomplished had Mr. Borg consented merely to join in the application to the Circuit Court at New York. The same result will be attained, though in a more circuitous manner, by the proceedings which have been already instituted; with this difference, however, that, in the one case, the person of Metzger would have been secured, whilst, in the other, he has necessarily been set at liberty.

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

PROCLAMATION OF PRESIDENT POLK

SUSPENDING DISCRIMINATING DUTIES AS TO BRAZIL.¹

[November 4, 1847.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas by an act of the Congress of the United States of the twenty-fourth of May, one thousand eight hundred and twenty-eight, entitled "An act in addition to an act entitled 'An act concerning discriminating duties of tonnage and impost, and to equalize the duties on Prussian vessels and their cargoes,'" it is provided, that upon satisfactory evidence being given to the President of the United States, by the government of any foreign nation, that no discriminating duties of tonnage or impost are imposed or levied in the ports of the said nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States, or from any foreign country, the President is thereby authorized to issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are, and shall be, suspended and discontinued, so far as respects the vessels of the said foreign nation, and the produce, manufactures, or merchandise imported into the United States in the same from the said foreign nation, or from any other foreign country, the said suspension to take effect from the time of such notification being given to the President of the United States, and to continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes as aforesaid, shall be continued, and no longer; and

Whereas satisfactory evidence has lately been received by me, from His Majesty the Emperor of Brazil, through an official communication of Mr. Felippe José Pereira Leal, his chargé d'affaires in the United States, under date of the 25th of October, 1847, that no other or higher duties of tonnage and impost are imposed or levied in the ports of Brazil upon vessels wholly

¹United States Statutes at Large, IX. 1001-1002.

belonging to citizens of the United States, and upon the produce, manufactures, or merchandise imported in the same from the United States and from any foreign country whatever, than are levied on Brazilian ships and their cargoes in the same ports under like circumstances:

Now, therefore, I, James K. Polk, President of the United States of America, do hereby declare and proclaim that so much of the several acts imposing discriminating duties of tonnage and impost within the United States are, and shall be, suspended and discontinued so far as respects the vessels of Brazil, and the produce, manufactures, and merchandise imported into the United States in the same, from Brazil and from any other foreign country whatever, the said suspension to take effect from the day above mentioned, and to continue thenceforward so long as the reciprocal exemption of the vessels of the United States, and the produce, manufactures, and merchandise imported into Brazil in the same as aforesaid, shall be continued on the part of the Government of Brazil.

Given under my hand, at the city of Washington, this fourth day of November, in the year of our Lord one thousand eight hundred and forty-seven, and the seventy-second of the Independence of the United States.

JAMES K. POLK.

By the President:

JAMES BUCHANAN,

Secretary of State.

TO MR. PARKER.¹

DEPARTMENT OF STATE,
WASHINGTON, 9th November, 1847.

PETER PARKER, Esq.

Secretary and Interpreter to the Commissioner to China.
SIR:

In reply to your letter of the 21st of July last, I have to inform you that it has been customary for the United States to defray the expenses of the burial, including a monument, of their Diplomatic Agents who have died abroad; and that, therefore, those attending the burial of Mr. Everett will be allowed at a reasonable rate, not, as stated by you, to exceed six hundred dollars.

I am, Sir, your obedient servant,

JAMES BUCHANAN.

P. S. A credit, not exceeding six hundred dollars, for the above named object, has been opened in your favor with the Messrs. Baring Brothers & Co., Bankers of the U. S.

¹ MSS. Department of State, Instructions, China, I. 45.

TO M. PAGEOT.¹

DEPARTMENT OF STATE,
WASHINGTON, 10th Novr., 1847.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

SIR:

I have received your note of the 3d instant, and should have refrained from replying to it but that I deemed it to be due both to you and myself to state that I never did inform you, after the order had been issued by the President for the extradition of Metzger, that the intervention of the agents of France would become necessary in any future proceeding. On the contrary, it was my avowed intention that the State Department at its own expense, and on its own responsibility, should conduct such proceedings, should these become necessary. But whilst cheerfully admitting all this, I could not have anticipated that the Vice Consul of France would refuse to unite with the District Attorney in an application to the Circuit Court of the United States for the arrest of Metzger, without which formality it was impossible that any proceedings could be commenced or conducted by the State Department.

Whilst I am far from attaching any blame whatever either to yourself or Mr. Borg for this refusal, I still consider it unfortunate; because, had he consented to make the application, I believe, from the evidence in my possession, that Metzger might have been arrested before his escape. Besides, had the Circuit Court decided in favor of his extradition he could have resorted to no possible remedy but an appeal to the Supreme Court of the United States, whose decree would have been final and conclusive on all Courts and Magistrates, State as well as Federal. Even Judge Edmonds, under such circumstances would not have attempted to interpose. Indeed, the only pretext which he had for interfering with the decision of Judge Betts was that this was made by the Judge at his chambers, and for that reason could not be reviewed by the Supreme Court of the United States as they had determined on a writ of habeas corpus.

Whilst I fully agree that the omission to insert the clause contained in the treaty with Great Britain, to which I referred in my former note, in the convention with France, is equally the

¹ MSS. Department of State, Notes to French Legation, VI. 111.

omission of both Governments, yet I cannot for this reason refrain from expressing my regret that it had not been inserted; and this for several reasons which I need not detail. The most prominent of these is, that State Magistrates are found everywhere; whilst a fugitive from the justice of France might escape during the time lost by the French agent in travelling the necessary distance to find a United States Judge.

I am aware that the principles decided by Judge Edmonds would nullify the treaty with England as well as the convention with France without the legislation of Congress; and yet there may possibly be a distinction between a treaty which in terms prescribes the means of its own execution, and one where these means are not specified, but are left wholly to inference and construction.

It was doubtless on the supposition that the two treaties were the same that the agents of France applied in the first instance to a State Magistrate for a warrant to arrest Metzger. When I stated, in my former note, that this mistake was at the root of all subsequent difficulties I did not sufficiently explain myself, and therefore you have misapprehended my meaning. It was simply that this mistake had occasioned much delay, had afforded Judge Edmonds an opportunity to interfere, had encouraged Metzger and his counsel to make extraordinary efforts, and had prepared the way for the final unfortunate and unexpected result. All this might have been prevented had the French authorities applied to Judge Betts in the beginning.

Accept, Sir, the renewed assurance of my high consideration.

JAMES BUCHANAN.

TO MR. PARKER.¹

No. I.

DEPARTMENT OF STATE,

WASHINGTON, 10th Nov. 1847.

PETER PARKER, Esq.

&c. &c. &c.

SIR:

Your despatch of the 23rd July last, and numbered thirty-two, has been received.

In consequence of the death of Mr. Everett, it becomes necessary that you should be placed in charge of the Chinese

¹ MSS. Department of State, Instructions, China, I. 46.

Mission; and the President has accordingly directed me to request you to act as Chargé d'Affaires *ad interim* of the United States at Canton, until the vacancy occasioned by Mr. Everett's decease can be filled by the appointment of a successor. I am happy to believe, from the ability and fidelity with which you have performed the duties of this appointment on a former occasion, that it could not be entrusted to a more competent person.

For the contingent expenses of the Legation, within the usual limitation, you are authorized to draw on the United States Bankers at London, Messrs. Baring, Brothers, & Co.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. DALLAS.¹

DEPARTMENT OF STATE,

WASHINGTON, 11th Nov. 1847.

GEORGE M. DALLAS,
Washington.

SIR:

I have had the honor to receive your letter of the 5th instant, upon the subject of certain certificates of Mexican debt issued to Messrs. Lizardi and Co. of London, and now held by Messrs. Gordon and Musson of New Orleans. This letter has been submitted to the President, who, after respectful consideration, has directed me to inform you that the application of those gentlemen cannot be granted.

It has been the practice of this Department to confine its official action in the recovery of indemnity from foreign Governments to tortious acts committed under their authority against the persons and property of our citizens. In the case of violations of contract, the rule has been not to interfere, unless under very peculiar circumstances; and then only to instruct our Diplomatic agents abroad to use their good offices in behalf of American citizens with the Governments to which they are accredited.

The distinction between claims arising from torts and from contracts is, I believe, recognized by all nations, and the reason for this distinction will readily occur to your own mind.

¹ MSS. Department of State, 36 Domestic Letters, 328.

It is believed that this Government have never proceeded even thus far, in the case of an obligation from a foreign Government to the subject of another country which has been transferred to a citizen of the United States.

On the present occasion, Messrs. Gordon and Musson having obtained certain certificates of loan, amounting to £240,000 sterling, payable to bearer, which constituted part of the large funded debt of Mexico to British subjects, now ask the President to adopt means to secure their payment in concluding a treaty with the Mexican government. These bonds pass by delivery, and if the Government should undertake this agency in one case in favor of American assignees it must act in the same manner in all similar cases. A large amount of the foreign debt of Mexico would soon then be transferred to American citizens, and their Government would be obliged to collect it at par when it does not command in the market more than thirty cents in the dollar. Besides, this might, and probably would, prove extremely embarrassing in any negotiations with Mexico.

Under these circumstances, the President regrets that he feels himself constrained to give you an unfavorable answer.

I have the honor, &c.,

JAMES BUCHANAN.

TO MR. GEVEKOHT.¹

DEPARTMENT OF STATE,
WASHINGTON, 11th November, 1847.

C. T. GEVEKOHT, ESQRE.,
&c. &c. &c., New York.

SIR: I have received the note which you did me the honor of addressing to me on the 6th August last, kindly offering the aid of the Senate of Bremen in procuring a change in the construction of the eighth Article of our Treaty with Hanover, alleged to have been adopted by the Hanoverian Government,—in consideration that this Government would consent to the alteration, which you suggest, in the fifth Article.

The Department has never been informed, except by your note, that the Hanoverian Government had adopted the illiberal construction of the 8th Article, to which you refer. Certain it is, that no complaint has yet reached this Department, from any

¹ MSS. Department of State, Notes to German States, VI. 172.

individual, that higher transit duties had been levied by the Hanoverian authorities than those which the Treaty would warrant. I will, therefore, not anticipate a difficulty so unreasonable, until it shall have actually occurred in practice.

In regard to the proposed change in the 5th article of the Treaty:—this could not be made, except by a new Treaty. It was considered an important stipulation, both by the President and the Senate, and one of the fair equivalents conceded by Hanover for the important privileges secured to her commerce and navigation, throughout the vast extent of our country, that the vessels engaged in the trade should be built within the territories of the respective parties. I could afford you, therefore, but little encouragement to hope that such a change in the 5th article would be sanctioned either by the President or the Senate.

Deeply sensible of the kind intentions of the Senate of Bremen, I remain, with high consideration,

Your obedient servant,

JAMES BUCHANAN.

TO MR. MANN.¹

DEPARTMENT OF STATE,
WASHINGTON, 13th November, 1847.

A. DUDLEY MANN, ESQRE.,
&c., &c., &c.

SIR:

I transmit to you, herewith, a copy of a correspondence between this Department and Mr. Gevekoht,—consisting of a note addressed by him to me, under date of the 6th of August last, and of my reply of the 11th instant.

The construction alleged to have been placed upon the 8th Article of the Treaty, by the authorities of Hanover, has been as you will learn from my note, made known to this Government only through the representation contained in that of Mr. Gevekoht. Your special attention is invited to this subject; and if you should ascertain that such a construction has been adopted, you will, with as little delay as practicable, use the necessary means to have it corrected.

I take this occasion to acknowledge the receipt of your despatches of the 2nd, 3rd, and 30th August, and of the 12th

¹ MSS. Department of State, Instructions to Diplomatic Agents, &c., 9.

ultimo. Mr. Hobbie yesterday delivered to me your Report on European Emigration; but I have not yet had time to examine its contents.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO MR. LEAL.¹

DEPARTMENT OF STATE,

WASHINGTON, 15th November, 1847.

SIR: I have had the honor to receive your note of the 9th September, with "the copy of the documents in the trial of the accused seaman, Michael Driscoll, in which will be seen, as you observe, on the 11th leaf, the acknowledgment by the criminal, made before the Court of the Subdelegation of Sao José, of the knife brought by him from on board the Sloop of War Saratoga and taken from him by the Patrol of the Police," &c.

This document has doubtless been presented to the Department for the purpose of proving that the police of Rio de Janeiro first arrested the seaman Driscoll and took possession of his knife, and of thus discrediting the positive testimony of the Chaplain Lambert and Lieutenants Davis and Stark of the American Navy, who have sworn positively to the fact that Driscoll was seized by Lieutenant Davis and deprived of his knife before the police guard was even in sight.

After the receipt of your note, I felt it to be my duty to send for Lieutenant Davis and receive his explanations upon the subject. These are full and satisfactory and are contained in his deposition taken on the 2nd instant before the Mayor of this City, a copy of which I have the honor to enclose. I also transmit you a copy of the deposition of Mr. Henry A. Wise, taken at the same time and before the same officer.

The depositions of Messrs. Lambert, Stark and Davis, corroborated as they have been by the other four witnesses examined before the American Consul at Rio, had rendered it perfectly certain that the knife alleged to have been acknowledged by Driscoll as his own could not have been the knife brought by him from on board the Saratoga. This knife had been delivered up

¹ MSS. Department of State, Notes to Brazilian Legation, VI. 69; S. Ex. Doc. 35, 30 Cong. 1 Sess. 60.

to Lieutenant Davis by Driscoll in the grog shop where he was seized, and handed over to the seaman named Rooney, who never was molested by the Police.

To whom, then, did the knife belong which was produced before the Subdelegate of the police of Sao José, and in what manner did the Police obtain possession of it? Let the witness Watlington answer this question. In his deposition taken before the American Consul at Rio on the 1st of November, 1846, he swears that whilst "I (Watlington) was standing in the door of the palace, there was an American sailor standing there, also, a man of war's man; quite a peaceable spectator, and I think eating something at the time. A number of soldiers came running up behind him, *one of them seized a sheath knife in his belt*, then they caught hold of him, a number of them, and began to beat him," &c. The name of this man was Lansing Sanborn, mis-called Lanborn in the Brazilian proceedings against him, and it was his knife, not that of Driscoll, of which the Brazilian police thus obtained possession.

That the Police knew this to be the fact, is clearly established by another circumstance. The day after the arrest of Lieutenant Davis, on the 1st November, 1846, the sword which he had worn was brought into the room where he was confined as a prisoner, with a knife tied to it. The sword with the knife thus attached stood in the corner of the room, and there Mr. Wise saw it when visiting Lieutenant Davis on the morning of the 2nd November. When Lieutenant Davis was released, he carried away the sword and left the knife of Sanborn behind. After this, the Brazilian police, in order to furnish testimony to exculpate themselves, must have taken this knife to the Court of the Subdelegate of police on the 5th November, following, and induced Driscoll, who had been in a state of such brutal intoxication that he was unconscious of all that passed on the 31st October, to acknowledge Sanborn's knife to be his own. That this was an after thought and that the Police had no such purpose on the 1st and 2nd November, is manifest from the fact that the knife was left with the sword in the custody of Lieutenant Davis to be taken away by him when released from imprisonment, had he thought proper. Lieutenant Davis swears, that "when Driscoll was asked by Sanborn why he had claimed or admitted his, Sanborn's, knife to be the knife which had been taken from him, Driscoll, (on the 31st October, 1846) he, Driscoll, replied that "there was enough of them in trouble already." This was

the reason why Driscoll acknowledged a knife to be his which he knew was not his and consequently Sanborn was released as innocent on the 5th November, 1846.

Thus it appears that the whole story was ingeniously invented by the Police to prove that they had first seized Driscoll, and to shield themselves from the punishment from their own Government which they so well deserved. That the Brazilian Minister for Foreign Affairs did not attach any importance to this story of the knife at the date of his instructions to you of the 31st May, last, is manifest from the fact that he has not even alluded to it throughout the whole of that able and elaborate document. For my own part, the first intimation which I ever received of it came from yourself in conversation on the 8th September, last, after you had received my note of the 30th August, last, in reply to the instructions of the Minister for Foreign Affairs.

After conversing with Mr. Wise since his return to this country, truth requires that I should now correct the mistake which I committed in having strongly expressed the belief, in my note to you of the 30th August, last, that he had not sanctioned the publication in the United States of the speech made by him on the occasion of the baptism on the deck of the Frigate Columbia, in the harbor of Rio. It is proper, however, to observe that he considered his participation in this transaction on board of a national vessel of war, at some distance from the shore, to be of a private, not an official character, and that under such circumstances he felt himself as free to express his sentiments as if he had been in the United States. The speech, as Mr. Wise observed to me, was neither intended for nor heard by the Brazilians, nor did any knowledge of it reach Brazil until after it had been published in some of our own journals, and through this medium was sent back to Rio and there re-published.

I avail myself of this occasion, Sir, to offer to you renewed assurances of my high consideration.

JAMES BUCHANAN.

To SENHOR FELIPPE JOSÉ PEREIRA LEAL,
&c., &c., &c.

TO MR. CRAMPTON.¹

DEPARTMENT OF STATE,
WASHINGTON, 17th Novr., 1847.

JOHN F. CRAMPTON, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 8th instant, expressing the anxiety of Her Majesty's Government to bring to a prompt close the proceedings of the Joint Boundary Commission under Lieutenant Colonel Estcourt and Mr. Albert Smith, and stating that you have been instructed to request that the President will direct that the papers which remain to be sent in by the officers of the United States Commission be prepared and transmitted to the British Commissioner, in order that the Commission may be dissolved without further delay.

The wishes of Her Majesty's Government, in this respect, accompanied by the expression of a similar desire on the part of the President, have been communicated to the American Commissioner; and I have now the honor of transmitting you a copy of his reply, which I doubt not will prove satisfactory.

I avail myself of the occasion to renew to you the assurance of my high consideration.

JAMES BUCHANAN.

TO MR. LEAL.²

DEPARTMENT OF STATE,
WASHINGTON, 17th November, 1847.

TO SENHOR FELIPPE JOSÉ PEREIRA LEAL,
&c. &c. &c.

SIR:

I have the honor to acknowledge the receipt of your note of the 21st ultimo with a copy of the instructions of His Excellency the Minister for Foreign Affairs to yourself, dated on the 30th August last.

The President is gratified to learn that Mr. Tod, the Envoy Extraordinary and Minister Plenipotentiary of the United States, has been kindly and courteously received by His Imperial Majesty.

¹ MSS. Department of State, Notes to Great Britain, VII. 176.

² MSS. Department of State, Notes to Brazilian Legation, VI. 73.

Having already so fully and frankly presented the views of the President, in my notes to you of the 30th August, last, and 15th instant, in respect to the unhappy differences between the two Governments, I have nothing to add upon the present occasion, except to say that these views remain unchanged.

The President is pleased to learn that an Envoy Extraordinary and Minister Plenipotentiary to the United States "will shortly be appointed" by His Imperial Majesty. He trusts that this high functionary will come to Washington instructed and prepared to settle all existing differences between the two Governments in a manner just and honorable to both countries. In expressing this desire, he feels constrained to reiterate his deep regret that the amicable and honorable adjustment of the affair of Lieutenant Davis and the American seamen, made by Mr. Lisboa and myself, had not proved satisfactory to the Brazilian Government. It is his sincere wish that every cause of misunderstanding between the two Governments should be speedily removed, and that they should preserve and cultivate the most friendly relations with each other.

I avail myself of this occasion, Sir, to offer to you renewed assurances of my great consideration.

JAMES BUCHANAN.

TO MR. TOD.¹

No. 7.

DEPARTMENT OF STATE,
WASHINGTON, 22nd November, 1847.

To DAVID TOD, ESQUIRE,
etc., etc., etc.

SIR:

Your despatches to No. 9, inclusive, with the exception of No. 6, have been received.

In reply to the request contained in your No. 3, I am directed to inform you that the President, under all the circumstances, approves your conduct in asking an audience to present your credentials to the Emperor, and is gratified that you have been kindly and courteously received. He regrets, however, that in your speech to His Majesty you should have deemed it necessary to make any allusion whatever to your predecessor. From the known feelings of the Emperor towards that gentleman, you

¹ MSS. Department of State, Instructions, Brazil, XV. 159.

might have been certain that this would call forth a reply which could not prove agreeable to this Government, which had approved his conduct in the controversy arising out of the imprisonment of Lieutenant Davis and the three American sailors, and more especially as this affair was to be adjusted at Washington and not at Rio.

It is certainly hoped that the Minister about to be sent to the United States by the Imperial Government may come instructed and prepared to adjust this controversy in a satisfactory manner. The subject has yet attracted but little comparative attention in the United States; but when all the papers in relation to it shall have been submitted to Congress, it will doubtless produce considerable excitement in the public mind. I understand that Mr. Wise will cause a call for these papers to be made by the one or the other branch of Congress. Should His Majesty think proper to restore Mr. Lisboa, who has been cruelly treated for doing his duty faithfully to his country, this would smooth the way to the adjustment of the difficulty. Indeed, in that event, the President might be willing to consign the whole affair to oblivion without further explanation.

I would again invite your earnest attention to the long pending claims of citizens of the United States against the Brazilian Government. The time has arrived when these claims and others against different South American States cannot be much longer deferred. The President's message will contain a pointed paragraph upon this subject, as well as upon that of the African slave trade.

The President has also been gratified with the successful result of your application for a suspension for four months of the execution of the law pursuant to which whaling vessels of the United States which touched at Ilha Grande, for the purpose of exchanging oil for refreshments, have recently been seized. This suspension is regarded as a proof of good will towards you personally, and of a disposition not to add to existing causes of irritation by suddenly enforcing the law against our vessels at a point where the practice referred to had so long been tacitly allowed.

I transmit, herewith, a copy of a note under date the 15th instant, addressed by this Department to Mr. Leal, in answer to one from that gentleman which was accompanied by a transcript of the judicial proceedings at Rio against Michael Driscoll, the seaman whom the police of that City took from the custody of

Lieutenant Davis on the 31st of October, 1846. It is to be hoped that the explanations contained in this note and in the depositions of Mr. Wise and Lieutenant Davis, to which it refers, will satisfy the Brazilian Government that the police were not so fortunate as to obtain possession of Driscoll's knife, at any time. Of the importance, however, for their exculpation, of making this appear, they seem to have been well aware.

I am, Sir, very respectfully, your obedient servant,

JAMES BUCHANAN.

TO MR. HAMILTON.¹

DEPARTMENT OF STATE,

WASHINGTON, Decr. 1st, 1847.

ROBERT M. HAMILTON ESQRE.

U. S. C. Montevideo.

SIR,

Messrs. William Musser & Co. of Philadelphia have addressed a letter to this Department, stating that the Montevidean Government have neglected to comply in any particular with the arrangement which they made with Commodore Turner to pay for the Gunpowder belonging to them which they had seized. According to that arrangement, they were to pay six thousand four hundred and fifty dollars, in specie, as the principal of the debt, on the conclusion of their War with General Oribe, and, meanwhile, interest on that sum in Monthly payments in specie from the 16th December, 1845, at the rate of twelve per cent. per annum. I am not aware of any circumstances which could justify their delinquency in such a case. You will accordingly address a communication to that Government, remonstrating against it and demanding that the arrears of interest be paid at once, and that the payments to become due be punctually made. If your application shall fail, it will be the duty of this Government to take into consideration the expediency of adopting some other course, for the purpose of obtaining satisfaction for the Claimants.

I am, Sir, &c.

JAMES BUCHANAN.

¹ MSS. Department of State, Despatches to Consuls, XIII. 45.

TO MR. WINTHROP.¹

DEPARTMENT OF STATE,

WASHINGTON, December 7, 1847.

The Secretary of State, in obedience to the 20th section of the act entitled "An act legalizing and making appropriations for such necessary objects as have usually been included in the general appropriation bills without authority of law, and to fix and provide for certain incidental expenses of the departments and offices of the government, and for other purposes," approved the 26th of August, 1842, and the act making appropriations for the civil and diplomatic expenses of government for the year one thousand eight hundred and thirty-six, (section 2) has the honor to submit to Congress the accompanying statements A, B, C, D, E, F, and G.

That marked A shows the manner in which the fund for the contingent expenses of the Department of State has been expended, so far as the disbursements have been made by the agent of the department, during the fiscal year ending on the 30th of June, 1847.

B, showing the disbursements from the same fund from the 1st July, 1846, to the 30th of June, 1847, by others than the agent of the Department of State, as stated by the Fifth Auditor.

C, copy of a statement by the Register of the Treasury, of the amount of all former appropriations for the same object remaining in the treasury, and in the hands of disbursing agents, on the 30th of June, 1847.

D, a copy of a precise and analytical statement, by the agent of the department, of all moneys disbursed by him during the fiscal year ending on the 30th of June, 1847.

E, a statement of contingent expenses of foreign intercourse, for the year ending on the 30th of November, 1847.

F, a statement of disbursements from the fund for contingent expenses of all the missions abroad, by the agent of the department, for the fiscal year ending on the 30th day of June, 1847; and

G, a statement of disbursements from the same fund, during the same period, by others than the agent of the department, as stated by the Fifth Auditor.

JAMES BUCHANAN.

HON. R. C. WINTHROP,

Speaker of the House of Representatives.

¹ H. Ex. Doc. 3, 30 Cong. 1 Sess. 1.

PRESIDENT POLK'S ANNUAL MESSAGE,

DECEMBER 7, 1847.¹

FELLOW-CITIZENS OF THE SENATE

AND OF THE HOUSE OF REPRESENTATIVES:

The annual meeting of Congress is always an interesting event. The Representatives of the States and of the people come fresh from their constituents to take counsel together for the common good. After an existence of near three-fourths of a century as a free and independent republic, the problem no longer remains to be solved, whether man is capable of self-government. The success of our admirable system is a conclusive refutation of the theories of those in other countries who maintain that "a favored few" are born to rule, and that the mass of mankind must be governed by force. Subject to no arbitrary or hereditary authority, the people are the only sovereigns recognised by our constitution. Numerous emigrants of every lineage and language, attracted by the civil and religious freedom we enjoy, and by our happy condition, annually crowd to our shores, and transfer their heart, not less than their allegiance, to the country whose dominion belongs alone to the people.

No country has been so much favored, or should acknowledge with deeper reverence the manifestations of the Divine protection. An all-wise Creator directed and guarded us in our infant struggle for freedom, and has constantly watched over our surprising progress, until we have become one of the great nations of the earth.

It is in a country thus favored, and under a government in which the executive and legislative branches hold their authority for limited periods, alike from the people, and where all are responsible to their respective constituencies, that it is again my duty to communicate with Congress upon the state of the Union, and the present condition of public affairs.

During the past year the most gratifying proofs are presented that our country has been blessed with a widespread and universal prosperity. There has been no period since the government was founded, when all the industrial pursuits of our people have been more successful, or when labor in all branches of business has received a fairer or better reward. From our abundance we have been enabled to perform the pleasing duty of furnishing food for the starving millions of less favored countries.

In the enjoyment of the bounties of Providence at home, such as have rarely fallen to the lot of any people, it is cause of congratulation, that our intercourse with all the powers of the earth, except Mexico, continues to be of an amicable character.

It has ever been our cherished policy to cultivate peace and good will with all nations; and this policy has been steadily pursued by me.

No change has taken place in our relations with Mexico since the adjournment of the last Congress. The war in which the United States were forced to engage with the government of that country still continues.

¹ S. Ex. Doc. 1, 30 Cong. 1 Sess. 3-21; Cong. Globe, 30 Cong. 1 Sess. Appendix, 1-5. See confidential letter of President Polk to Mr. Buchanan, Oct. 16, 1847, *supra*.

I deem it unnecessary, after the full exposition of them contained in my message of the eleventh of May, 1846, and in my annual message at the commencement of the session of Congress in December last, to reiterate the serious causes of complaint which we had against Mexico before she commenced hostilities.

It is sufficient on the present occasion to say, that the wanton violation of the rights of person and property of our citizens committed by Mexico, her repeated acts of bad faith, through a long series of years, and her disregard of solemn treaties, stipulating for indemnity to our injured citizens, not only constituted ample cause of war on our part, but were of such an aggravated character as would have justified us before the whole world in resorting to this extreme remedy. With an anxious desire to avoid a rupture between the two countries, we forbore for years to assert our clear rights by force, and continued to seek redress for the wrongs we had suffered by amicable negotiation, in the hope that Mexico might yield to pacific counsels and the demands of justice. In this hope we were disappointed. Our minister of peace sent to Mexico was insultingly rejected. The Mexican government refused even to hear the terms of adjustment which he was authorized to propose; and finally, under wholly unjustifiable pretexts, involved the two countries in war, by invading the territory of the State of Texas, striking the first blow, and shedding the blood of our citizens on our own soil.

Though the United States were the aggrieved nation, Mexico commenced the war, and we were compelled, in self-defence, to repel the invader, and to vindicate the national honor and interests by prosecuting it with vigor until we could obtain a just and honorable peace.

On learning that hostilities had been commenced by Mexico, I promptly communicated that fact, accompanied with a succinct statement of our other causes of complaint against Mexico, to Congress; and that body, by the act of the thirteenth of May, 1846, declared that "by the act of the republic of Mexico, a state of war exists between that government and the United States"—and this act, declaring "the war to exist by the act of the republic of Mexico," and making provision for its prosecution "to a speedy and successful termination," was passed with great unanimity by Congress, there being but two negative votes in the Senate, and fourteen in the House of Representatives.

The existence of the war having thus been declared by Congress, it became my duty, under the constitution and the laws, to conduct and prosecute it. This duty has been performed; and though, at every stage of its progress, I have manifested a willingness to terminate it by a just peace, Mexico has refused to accede to any terms which could be accepted by the United States, consistently with the national honor and interest.

The rapid and brilliant successes of our arms, and the vast extent of the enemy's territory which had been overrun and conquered, before the close of the last session of Congress, were fully known to that body. Since that time, the war has been prosecuted with increased energy, and, I am gratified to state, with a success which commands universal admiration. History presents no parallel of so many glorious victories achieved by any nation within so short a period. Our army, regulars and volunteers, have covered themselves with imperishable honors. Whenever and wherever our forces have encountered the enemy, though he was in vastly superior numbers, and

often entrenched in fortified positions of his own selection, and of great strength, he has been defeated. Too much praise cannot be bestowed upon our officers and men, regulars and volunteers, for their gallantry, discipline, indomitable courage, and perseverance, all seeking the post of danger, and vying with each other in deeds of noble daring.

While every patriot's heart must exult, and a just national pride animate every bosom, in beholding the high proofs of courage, consummate military skill, steady discipline, and humanity to the vanquished enemy, exhibited by our gallant army, the nation is called to mourn over the loss of many brave officers and soldiers who have fallen in defence of their country's honor and interests. The brave dead met their melancholy fate in a foreign land, nobly discharging their duty, and with their country's flag waving triumphantly in the face of the foe. Their patriotic deeds are justly appreciated, and will long be remembered by their grateful countrymen. The parental care of the government they loved and served should be extended to their surviving families.

Shortly after the adjournment of the last session of Congress, the gratifying intelligence was received of the signal victory of Buena Vista and of the fall of the city of Vera Cruz, and with it the strong castle of San Juan de Ulloa, by which it was defended. Believing that after these and other successes, so honorable to our arms and so disastrous to Mexico, the period was propitious to afford her another opportunity, if she thought proper to embrace it, to enter into negotiations for peace, a commissioner was appointed to proceed to the headquarters of our army, with full powers to enter upon negotiations, and to conclude a just and honorable treaty of peace. He was not directed to make any new overtures of peace, but was the bearer of a despatch from the Secretary of State of the United States to the Minister of Foreign Affairs of Mexico, in reply to one received from the latter of the twenty-second of February, 1847, in which the Mexican government was informed of his appointment, and of his presence at the headquarters of our army, and that he was invested with full powers to conclude a definitive treaty of peace, whenever the Mexican government might signify a desire to do so. While I was unwilling to subject the United States to another indignant refusal, I was yet resolved that the evils of the war should not be protracted a day longer than might be rendered absolutely necessary by the Mexican government.

Care was taken to give no instructions to the commissioner which could in any way interfere with our military operations, or relax our energies in the prosecution of the war. He possessed no authority in any manner to control these operations. He was authorized to exhibit his instructions to the General in command of the army; and in the event of a treaty being concluded and ratified on the part of Mexico, he was directed to give him notice of that fact. On the happening of such contingency, and on receiving notice thereof, the General in command was instructed by the Secretary of War to suspend further active military operations until further orders. These instructions were given with a view to intermit hostilities until the treaty thus ratified by Mexico could be transmitted to Washington, and receive the action of the Government of the United States.

The commissioner was also directed, on reaching the army, to deliver to the General in command the despatch which he bore from the Secretary of State to the Minister of Foreign Affairs of Mexico, and, on receiving it,

the General was instructed by the Secretary of War to cause it to be transmitted to the commander of the Mexican forces, with a request that it might be communicated to his Government.

The commissioner did not reach the headquarters of the army until after another brilliant victory had crowned our arms at Cerro Gordo.

The despatch which he bore from the Secretary of War to the General in command of the army was received by that officer, then at Jalapa, on the seventh day of May, 1847, together with the despatch from the Secretary of State to the Minister of Foreign Affairs of Mexico; having been transmitted to him from Vera Cruz. The commissioner arrived at the headquarters of the army a few days afterwards. His presence with the army and his diplomatic character were made known to the Mexican Government, from Puebla, on the twelfth of June, 1847, by the transmission of the despatch from the Secretary of State to the Minister of Foreign Affairs of Mexico.

Many weeks elapsed after its receipt, and no overtures were made, nor was any desire expressed by the Mexican Government to enter into negotiations for peace.

Our army pursued its march upon the capital, and, as it approached it, was met by formidable resistance. Our forces first encountered the enemy, and achieved signal victories in the severely contested battles of Contreras and Churubusco. It was not until after these actions had resulted in decisive victories, and the capital of the enemy was within our power, that the Mexican Government manifested any disposition to enter into negotiations for peace; and even then, as events have proved, there is too much reason to believe they were insincere, and that in agreeing to go through the forms of negotiation, the object was to gain time to strengthen the defences of their capital, and to prepare for fresh resistance.

The General in command of the army deemed it expedient to suspend hostilities temporarily, by entering into an armistice with a view to the opening of negotiations. Commissioners were appointed on the part of Mexico to meet the commissioner on the part of the United States. The result of the conferences which took place between these functionaries of the two Governments was a failure to conclude a treaty of peace.

The commissioner of the United States took with him the project of a treaty already prepared, by the terms of which the indemnity required by the United States was a cession of territory.

It is well known that the only indemnity which it is in the power of Mexico to make in satisfaction of the just and long deferred claims of our citizens against her, and the only means by which she can reimburse the United States for the expenses of the war, is a cession to the United States of a portion of her territory. Mexico has no money to pay, and no other means of making the required indemnity. If we refuse this, we can obtain nothing else. To reject indemnity, by refusing to accept a cession of territory, would be to abandon all our just demands, and to wage the war, bearing all its expenses, without a purpose or definite object.

A state of war abrogates treaties previously existing between the belligerents, and a treaty of peace puts an end to all claims for indemnity—for tortious acts committed, under the authority of one Government against the citizens or subjects of another, unless they are provided for in its stipulations. A treaty of peace which would terminate the existing war, without providing for indemnity, would enable Mexico—the acknowledged debtor,

and herself the aggressor in the war—to relieve herself from her just liabilities. By such a treaty, our citizens who hold just demands against her would have no remedy either against Mexico or their own Government. Our duty to these citizens must forever prevent such a peace, and no treaty which does not provide ample means of discharging these demands can receive my sanction.

A treaty of peace should settle all existing differences between the two countries. If an adequate cession of territory should be made by such a treaty, the United States should release Mexico from all her liabilities, and assume their payment to our citizens. If, instead of this, the United States were to consent to a treaty by which Mexico should again engage to pay the heavy amount of indebtedness which a just indemnity to our Government and our citizens would impose on her, it is notorious that she does not possess the means to meet such an undertaking. From such a treaty no result could be anticipated, but the same irritating disappointments which have heretofore attended the violations of similar treaty stipulations on the part of Mexico. Such a treaty would be but a temporary cessation of hostilities, without the restoration of the friendship and good understanding which should characterize the future intercourse between the two countries.

That Congress contemplated the acquisition of territorial indemnity when that body made provision for the prosecution of the war, is obvious. Congress could not have meant—when, in May, 1846, they appropriated ten millions of dollars, and authorized the President to employ the militia and naval and military forces of the United States, and to accept the services of fifty thousand volunteers, to enable him to prosecute the war; and when, at their last session, and after our army had invaded Mexico, they made additional appropriations, and authorized the raising of additional troops for the same purpose—that no indemnity was to be obtained from Mexico at the conclusion of the war; and yet it was certain, that if no Mexican territory was acquired, no indemnity could be obtained.

It is further manifest that Congress contemplated territorial indemnity, from the fact, that at their last session, an act was passed, upon the executive recommendation, appropriating three millions of dollars with that express object. This appropriation was made “to enable the President to conclude a treaty of peace, limits, and boundaries with the Republic of Mexico, to be used by him in the event that said treaty, when signed by the authorized agents of the two Governments, and duly ratified by Mexico, shall call for the expenditure of the same, or any part thereof.” The object of asking this appropriation was distinctly stated in the several messages on the subject which I communicated to Congress. Similar appropriations made in 1803 and 1806, which were referred to, were intended to be applied in part consideration of the cession of Louisiana and the Floridas. In like manner it was anticipated that, in settling the terms of a treaty of “limits and boundaries” with Mexico, a cession of territory estimated to be of greater value than the amount of our demands against her might be obtained; and that the prompt payment of this sum—in part consideration for the territory ceded—on the conclusion of a treaty, and its ratification on her part, might be an inducement with her to make such a cession of territory as would be satisfactory to the United States. And although the failure to conclude such a treaty has rendered it unnecessary to use any part of the three millions of dollars appropriated by that act, and the entire sum remains in the treasury,

it is still applicable to that object, should the contingency occur making such application proper.

The doctrine of no territory is the doctrine of no indemnity; and, if sanctioned, would be a public acknowledgment that our country was wrong, and that the war declared by Congress with extraordinary unanimity was unjust, and should be abandoned; an admission unfounded in fact, and degrading to the national character.

The terms of the treaty proposed by the United States were not only just to Mexico, but, considering the character and amount of our claims, the unjustifiable and unprovoked commencement of hostilities by her, the expenses of the war to which we have been subjected, and the success which had attended our arms, were deemed to be of a most liberal character.

The commissioner of the United States was authorized to agree to the establishment of the Rio Grande as the boundary, from its entrance into the Gulf to its intersection with the southern boundary of New Mexico, in north latitude about thirty-two degrees, and to obtain a cession to the United States of the provinces of New Mexico and the Californias, and the privilege of the right of way across the isthmus of Tehuantepec. The boundary of the Rio Grande, and the cession to the United States of New Mexico and Upper California, constituted an ultimatum which our commissioner was under no circumstances to yield.

That it might be manifest not only to Mexico, but to all other nations, that the United States were not disposed to take advantage of a feeble Power, by insisting upon wresting from her all the other provinces, including many of her principal towns and cities, which we had conquered and held in our military occupation, but were willing to conclude a treaty in a spirit of liberality, our commissioner was authorized to stipulate for the restoration to Mexico of all our other conquests.

As the territory to be acquired by the boundary proposed might be estimated to be of greater value than a fair equivalent for our just demands, our commissioner was authorized to stipulate for the payment of such additional pecuniary consideration as was deemed reasonable.

The terms of a treaty proposed by the Mexican commissioners were wholly inadmissible. They negotiated as if Mexico were the victorious, and not the vanquished party. They must have known that their ultimatum could never be accepted. It required the United States to dismember Texas, by surrendering to Mexico that part of the territory of that State lying between the Nueces and the Rio Grande, included within her limits by her laws when she was an independent Republic, and when she was annexed to the United States and admitted by Congress as one of the States of our Union. It contained no provision for the payment by Mexico of the just claims of our citizens. It required indemnity to Mexican citizens for injuries they may have sustained by our troops in the prosecution of the war. It demanded the right for Mexico to levy and collect the Mexican tariff of duties on goods imported into her ports while in our military occupation during the war, and the owners of which had paid to officers of the United States the military contributions which had been levied upon them; and it offered to cede to the United States, for a pecuniary consideration, that part of Upper California lying north of latitude thirty-seven degrees. Such were the unreasonable terms proposed by the Mexican commissioners.

The cession to the United States by Mexico, of the provinces of New

Mexico and the Californias, as proposed by the commissioner of the United States, it was believed, would be more in accordance with the convenience and interests of both nations, than any other cession of territory which it was probable Mexico could be induced to make.

It is manifest to all who have observed the actual condition of the Mexican Government, for some years past, and at present, that if these provinces should be retained by her, she could not long continue to hold and govern them. Mexico is too feeble a Power to govern these provinces, lying as they do at a distance of more than a thousand miles from her capital, and, if attempted to be retained by her, they would constitute but for a short time, even nominally, a part of her dominions.

This would be especially the case with Upper California. The sagacity of powerful European nations has long since directed their attention to the commercial importance of that province, and there can be little doubt that the moment the United States shall relinquish their present occupation of it, and their claim to it as indemnity, an effort would be made by some foreign power to possess it, either by conquest or by purchase. If no foreign Government should acquire it in either of these modes, an independent revolutionary Government would probably be established by the inhabitants, and such foreigners as may remain in or remove to the country, as soon as it shall be known that the United States have abandoned it. Such a Government would be too feeble long to maintain its separate independent existence, and would finally become annexed to, or be a dependant colony of, some more powerful State.

Should any foreign Government attempt to possess it as a colony, or otherwise to incorporate it with itself, the principle avowed by President Monroe in 1824, and reaffirmed in my first annual message, that no foreign Power shall, with our consent, be permitted to plant or establish any new colony or dominion on any part of the North American continent, must be maintained. In maintaining this principle, and in resisting its invasion by any foreign Power, we might be involved in other wars more expensive and more difficult than that in which we are now engaged.

The provinces of New Mexico and the Californias are contiguous to the territories of the United States, and if brought under the government of our laws, their resources—mineral, agricultural, manufacturing, and commercial—would soon be developed.

Upper California is bounded on the north by our Oregon possessions; and if held by the United States, would soon be settled by a hardy, enterprising, and intelligent portion of our population. The bay of San Francisco, and other harbors along the Californian coast, would afford shelter for our navy, for our numerous whale ships, and other merchant vessels employed in the Pacific ocean, and would in a short period become the marts of an extensive and profitable commerce with China, and other countries of the East.

These advantages, in which the whole commercial world would participate, would at once be secured to the United States by the cession of this territory; while it is certain that as long as it remains a part of the Mexican dominions, they can be enjoyed neither by Mexico herself nor by any other nation.

New Mexico is a frontier province, and has never been of any considerable value to Mexico. From its locality, it is naturally connected with

our western settlements. The territorial limits of the State of Texas, too, as defined by her laws, before her admission into our Union, embrace all that portion of New Mexico lying east of the Rio Grande, while Mexico still claims to hold this territory as a part of her dominions. The adjustment of this question of boundary is important.

There is another consideration which induced the belief that the Mexican Government might even desire to place this province under the protection of the Government of the United States. Numerous bands of fierce and warlike savages wander over it, and upon its borders. Mexico has been, and must continue to be, too feeble to restrain them from committing depredations, robberies and murders, not only upon the inhabitants of New Mexico itself, but upon those of the other northern States of Mexico. It would be a blessing to all these northern States to have their citizens protected against them by the power of the United States. At this moment many Mexicans, principally females and children, are in captivity among them. If New Mexico were held and governed by the United States, we could effectually prevent these tribes from committing such outrages, and compel them to release these captives, and restore them to their families and friends.

In proposing to acquire New Mexico and the Californias, it was known that but an inconsiderable portion of the Mexican people would be transferred with them, the country embraced within these provinces being chiefly an uninhabited region.

These were the leading considerations which induced me to authorize the terms of peace which were proposed to Mexico. They were rejected; and, negotiations being at an end, hostilities were renewed. An assault was made by our gallant army upon the strongly fortified places near the gates of the city of Mexico, and upon the city itself; and, after several days of severe conflict, the Mexican forces—vastly superior in number to our own—were driven from the city, and it was occupied by our troops.

Immediately after information was received of the unfavorable result of the negotiations, believing that his continued presence with the army could be productive of no good, I determined to recall our commissioner. A despatch to this effect was transmitted to him on the sixth of October last. The Mexican Government will be informed of his recall, and that, in the existing state of things, I shall not deem it proper to make any further overtures of peace, but shall be at all times ready to receive and consider any proposals which may be made by Mexico.

Since the liberal proposition of the United States was authorized to be made in April last, large expenditures have been incurred, and the precious blood of many of our patriotic fellow-citizens has been shed in the prosecution of the war. This consideration, and the obstinate perseverance of Mexico in protracting the war, must influence the terms of peace which it may be deemed proper hereafter to accept.

Our arms having been everywhere victorious, having subjected to our military occupation a large portion of the enemy's country, including his capital, and negotiations for peace having failed, the important questions arise, In what manner ought the war to be prosecuted? and what should be our future policy? I cannot doubt that we should secure and render available the conquests which we have already made; and that, with this view, we should hold and occupy, by our naval and military forces, all the ports, towns, cities, and provinces now in our occupation, or which may hereafter

fall into our possession; that we should press forward our military operations, and levy such military contributions on the enemy as may, as far as practicable, defray the future expenses of the war.

Had the Government of Mexico acceded to the equitable and liberal terms proposed, that mode of adjustment would have been preferred. Mexico having declined to do this, and failed to offer any other terms which could be accepted by the United States, the national honor, no less than the public interests, requires that the war should be prosecuted with increased energy and power, until a just and satisfactory peace can be obtained. In the mean time, as Mexico refuses all indemnity, we should adopt measures to indemnify ourselves, by appropriating permanently a portion of her territory. Early after the commencement of the war, New Mexico and the Californias were taken possession of by our forces. Our military and naval commanders were ordered to conquer and hold them, subject to be disposed of by a treaty of peace.

These provinces are now in our undisputed occupation, and have been so for many months; all resistance on the part of Mexico having ceased within their limits. I am satisfied that they should never be surrendered to Mexico. Should Congress concur with me in this opinion, and that they should be retained by the United States as indemnity, I can perceive no good reason why the civil jurisdiction and laws of the United States should not at once be extended over them. To wait for a treaty of peace, such as we are willing to make, by which our relations towards them would not be changed, cannot be good policy; whilst our own interest, and that of the people inhabiting them, require that a stable, responsible, and free government under our authority should, as soon as possible, be established over them. Should Congress, therefore, determine to hold these provinces permanently, and that they shall hereafter be considered as constituent parts of our country, the early establishment of territorial governments over them will be important for the more perfect protection of persons and property; and I recommend that such territorial governments be established. It will promote peace and tranquillity among the inhabitants, by allaying all apprehension that they may still entertain of being again subjected to the jurisdiction of Mexico. I invite the early and favorable consideration of Congress to this important subject.

Besides New Mexico and the Californias, there are other Mexican provinces which have been reduced to our possession by conquest. These other Mexican provinces are now governed by our military and naval commanders, under the general authority which is conferred upon a conqueror by the laws of war. They should continue to be held as a means of coercing Mexico to accede to just terms of peace. Civil as well as military officers are required to conduct such a Government. Adequate compensation to be drawn from contributions levied on the enemy, should be fixed by law for such officers as may be thus employed. What further provision may become necessary, and what final disposition it may be proper to make of them, must depend on the future progress of the war, and the course which Mexico may think proper hereafter to pursue.

With the views I entertain, I cannot favor the policy which has been suggested, either to withdraw our army altogether, or to retire to a designated line, and simply hold and defend it. To withdraw our army altogether from the conquests they have made by deeds of unparalleled bravery, and

at the expense of so much blood and treasure, in a just war on our part, and one which, by the act of the enemy, we could not honorably have avoided, would be to degrade the nation in its own estimation and in that of the world.

To retire to a line, and simply hold and defend it, would not terminate the war. On the contrary, it would encourage Mexico to persevere, and tend to protract it indefinitely. It is not to be expected that Mexico, after refusing to establish such a line as a permanent boundary, when our victorious army are in possession of her capital, and in the heart of her country, would permit us to hold it without resistance. That she would continue the war, and in the most harassing and annoying forms, there can be no doubt. A border warfare of the most savage character, extending over a long line, would be unceasingly waged. It would require a large army to be kept constantly in the field, stationed at posts and garrisons along such a line, to protect and defend it. The enemy, relieved from the pressure of our arms on his coasts and in the populous parts of the interior, would direct his attention to this line, and, selecting an isolated post for attack, would concentrate his forces upon it. This would be a condition of affairs which the Mexicans, pursuing their favorite system of guerilla warfare, would probably prefer to any other. Were we to assume a defensive attitude on such a line, all the advantages of such a state of war would be on the side of the enemy. We could levy no contributions upon him, or in any other way make him feel the pressure of the war, but must remain inactive and await his approach, being in constant uncertainty at what point on the line, or at what time, he might make an assault. He may assemble and organize an overwhelming force in the interior, on his own side of the line, and, concealing his purpose, make a sudden assault upon some one of our posts so distant from any other as to prevent the possibility of timely succor or reinforcements; and in this way our gallant army would be exposed to the danger of being cut off in detail; or if, by their unequalled bravery and prowess everywhere exhibited during this war, they should repulse the enemy, their numbers stationed at any one post may be too small to pursue him. If the enemy be repulsed in one attack, he would have nothing to do but to retreat to his own side of the line, and, being in no fear of a pursuing army, may reinforce himself at leisure, for another attack on the same or some other post. He may, too, cross the line between our posts, make rapid incursions into the country which we hold, murder the inhabitants, commit depredations on them, and then retreat to the interior before a sufficient force can be concentrated to pursue him. Such would probably be the harassing character of a mere defensive war on our part. If our forces, when attacked, or threatened with attack, be permitted to cross the line, drive back the enemy, and conquer him, this would be again to invade the enemy's country, after having lost all the advantages of the conquests we have already made, by having voluntarily abandoned them. To hold such a line successfully and in security, it is far from being certain that it would not require as large an army as would be necessary to hold all the conquests we have already made, and to continue the prosecution of the war in the heart of the enemy's country. It is also far from being certain that the expenses of the war would be diminished by such a policy.

I am persuaded that the best means of vindicating the national honor and interest, and of bringing the war to an honorable close, will be to prose-

cute it with increased energy and power in the vital parts of the enemy's country.

In my annual message to Congress of December last, I declared that "the war has not been waged with a view to conquest; but having been commenced by Mexico, it has been carried into the enemy's country, and will be vigorously prosecuted there, with a view to obtain an honorable peace, and thereby secure ample indemnity for the expenses of the war, as well as to our much-injured citizens, who hold large pecuniary demands against Mexico." Such, in my judgment, continues to be our true policy—indeed, the only policy which will probably secure a permanent peace.

It has never been contemplated by me, as an object of the war, to make a permanent conquest of the republic of Mexico, or to annihilate her separate existence as an independent nation. On the contrary, it has ever been my desire that she should maintain her nationality, and, under a good government adapted to her condition, be a free, independent, and prosperous republic. The United States were the first among the nations to recognise her independence, and have always desired to be on terms of amity and good neighborhood with her. This she would not suffer. By her own conduct we have been compelled to engage in the present war. In its prosecution, we seek not her overthrow as a nation; but, in vindicating our national honor, we seek to obtain redress for the wrongs she has done us, and indemnity for our just demands against her. We demand an honorable peace; and that peace must bring with it indemnity for the past and security for the future. Hitherto Mexico has refused all accommodation by which such a peace could be obtained.

Whilst our armies have advanced from victory to victory, from the commencement of the war, it has always been with the olive-branch of peace in their hands; and it has been in the power of Mexico, at every step, to arrest hostilities by accepting it.

One great obstacle to the attainment of peace has, undoubtedly, arisen from the fact that Mexico has been so long held in subjection by one faction or military usurper after another, and such has been the condition of insecurity in which their successive governments have been placed, that each has been deterred from making peace, lest, for this very cause, a rival faction might expel it from power. Such was the fate of President Herrera's administration in 1845, for being disposed even to listen to the overtures of the United States to prevent the war, as is fully confirmed by an official correspondence which took place in the month of August last, between him and his government, a copy of which is herewith communicated. "For this cause alone, the revolution which displaced him from power was set on foot" by General Paredes. Such may be the condition of insecurity of the present government.

There can be no doubt that the peaceable and well disposed inhabitants of Mexico are convinced that it is the true interest of their country to conclude an honorable peace with the United States; but the apprehension of becoming the victims of some military faction or usurper may have prevented them from manifesting their feelings by any public act. The removal of any such apprehension would probably cause them to speak their sentiments freely, and to adopt the measures necessary for the restoration of peace. With a people distracted and divided by contending factions, and a government subject to constant changes, by successive revolutions, the con-

tinued successes of our arms may fail to secure a satisfactory peace. In such event, it may become proper for our commanding generals in the field to give encouragement and assurances of protection to the friends of peace in Mexico in the establishment and maintenance of a free republican government of their own choice, able and willing to conclude a peace which would be just to them, and secure to us the indemnity we demand. This may become the only mode of obtaining such a peace. Should such be the result, the war which Mexico has forced upon us would thus be converted into an enduring blessing to herself. After finding her torn and distracted by factions, and ruled by military usurpers, we should then leave her with a republican government, in the enjoyment of real independence, and domestic peace and prosperity, performing all her relative duties in the great family of nations, and promoting her own happiness by wise laws and their faithful execution.

If, after affording this encouragement and protection, and after all the persevering and sincere efforts we have made, from the moment Mexico commenced the war, and prior to that time, to adjust our differences with her, we shall ultimately fail, then we shall have exhausted all honorable means in pursuit of peace, and must continue to occupy her country with our troops, taking the full measure of indemnity into our own hands, and must enforce the terms which our honor demands.

To act otherwise, in the existing state of things in Mexico, and to withdraw our army without a peace, would not only leave all the wrongs of which we complain unredressed, but would be the signal for new and fierce civil dissensions and new revolutions—all alike hostile to peaceful relations with the United States.

Besides, there is danger, if our troops were withdrawn before a peace were concluded, that the Mexican people, wearied with successive revolutions, and deprived of protection for their persons and property, might at length be inclined to yield to foreign influences, and to cast themselves into the arms of some European monarch for protection from the anarchy and suffering which would ensue. This, for our own safety, and in pursuance of our established policy, we should be compelled to resist. We could never consent that Mexico should be thus converted into a monarchy governed by a foreign prince.

Mexico is our near neighbor, and her boundaries are coterminous with our own, through the whole extent across the North American continent, from ocean to ocean. Both politically and commercially, we have the deepest interest in her regeneration and prosperity. Indeed, it is impossible that, with any just regard to our own safety, we can ever become indifferent to her fate.

It may be that the Mexican government and people have misconstrued or misunderstood our forbearance, and our objects, in desiring to conclude an amicable adjustment of the existing differences between the two countries. They may have supposed that we would submit to terms degrading to the nation; or they may have drawn false inferences from the supposed division of opinion in the United States on the subject of the war, and may have calculated to gain much by protracting it; and, indeed, that we might ultimately abandon it altogether, without insisting on any indemnity, territorial or otherwise. Whatever may be the false impressions under which they have acted, the adoption and prosecution of the energetic policy proposed must soon undeceive them.

In the future prosecution of the war, the enemy must be made to feel its pressure more than they have heretofore done. At its commencement, it was deemed proper to conduct it in a spirit of forbearance and liberality. With this end in view, early measures were adopted to conciliate, as far as a state of war would permit, the mass of the Mexican population; to convince them that the war was waged not against the peaceful inhabitants of Mexico, but against their faithless government, which had commenced hostilities; to remove from their minds the false impressions which their designing and interested rulers had artfully attempted to make, that the war on our part was one of conquest; that it was a war against their religion and their churches, which were to be desecrated and overthrown; and that their rights of person and private property would be violated. To remove these false impressions, our commanders in the field were directed scrupulously to respect their religion, their churches, and their church property, which were in no manner to be violated; they were directed also to respect the rights of person and property of all who should not take up arms against us.

Assurances to this effect were given to the Mexican people by Major General Taylor, in a proclamation issued in pursuance of instructions from the Secretary of War, in the month of June, 1846, and again by Major General Scott, who acted upon his own convictions of the propriety of issuing it in a proclamation of the eleventh of May, 1847.

In this spirit of liberality and conciliation, and with a view to prevent the body of the Mexican population from taking up arms against us, was the war conducted on our part. Provisions and other supplies furnished to our army by Mexican citizens were paid for at fair and liberal prices agreed upon by the parties. After the lapse of a few months, it became apparent that these assurances, and this mild treatment, had failed to produce the desired effect upon the Mexican population. While the war had been conducted on our part according to the most humane and liberal principles observed by civilized nations, it was waged in a far different spirit on the part of Mexico. Not appreciating our forbearance, the Mexican people generally became hostile to the United States, and availed themselves of every opportunity to commit the most savage excesses upon our troops. Large numbers of the population took up arms, and, engaging in guerilla warfare, robbed and murdered in the most cruel manner individual soldiers, or small parties, whom accident or other causes had separated from the main body of our army; bands of guerilleros and robbers infested the roads, harassed our trains, and, whenever it was in their power, cut off our supplies.

The Mexicans having thus shown themselves to be wholly incapable of appreciating our forbearance and liberality, it was deemed proper to change the manner of conducting the war, by making them feel its pressure according to the usages observed under similar circumstances by all other civilized nations.

Accordingly, as early as the twenty-second of September, 1846, instructions were given by the Secretary of War to Major General Taylor to "draw supplies" for our army "from the enemy, without paying for them, and to acquire contributions for its support, if in that way he was satisfied he would get abundant supplies for his forces." In directing the execution of these instructions, much was necessarily left to the discretion of the commanding officer, who was best acquainted with the circumstances by which he was surrounded, the wants of the army, and the practicability of enforcing the measure.

General Taylor, on the twenty-sixth of October, 1846, replied, from Monterey, that "it would have been impossible hitherto, and is so now, to sustain the army to any extent by forced contributions of money or supplies." For the reasons assigned by him, he did not adopt the policy of his instructions, but declared his readiness to do so, "should the army, in its future operations, reach a portion of the country which may be made to supply the troops with advantage." He continued to pay for the articles of supply which were drawn from the enemy's country.

Similar instructions were issued to Major General Scott on the third of April, 1847, who replied from Jalapa, on the twentieth of May, 1847, that if it be expected "that the army is to support itself by forced contributions levied upon the country, we may ruin and exasperate the inhabitants, and starve ourselves." The same discretion was given to him that had been to General Taylor in this respect. General Scott, for the reasons assigned by him, also continued to pay for the articles of supply for the army which were drawn from the enemy.

After the army had reached the heart of the most wealthy portion of Mexico, it was supposed that the obstacles which had before that time prevented it would not be such as to render impracticable the levy of forced contributions for its support; and on the first of September, and again on the sixth of October, 1847, the order was repeated in despatches addressed by the Secretary of War to General Scott, and his attention was again called to the importance of making the enemy bear the burdens of the war by requiring them to furnish the means of supporting our army; and he was directed to adopt this policy, unless, by doing so, there was danger of depriving the army of the necessary supplies. Copies of these despatches were forwarded to General Taylor for his government.

On the thirty-first of March last, I caused an order to be issued to our military and naval commanders to levy and collect military contributions upon all vessels and merchandise which might enter any of the ports of Mexico in our military occupation, and to apply such contributions towards defraying the expenses of the war. By virtue of the right of conquest and the laws of war, the conqueror, consulting his own safety or convenience, may either exclude foreign commerce altogether from all such ports, or permit it upon such terms and conditions as he may prescribe. Before the principal ports of Mexico were blockaded by our navy, the revenue derived from the impost duties, under the laws of Mexico, was paid into the Mexican treasury. After these ports had fallen into our military possession, the blockade was raised, and commerce with them permitted upon prescribed terms and conditions. They were opened to the trade of all nations upon the payment of duties more moderate in their amount than those which had been previously levied by Mexico; and the revenue, which was formerly paid into the Mexican treasury, was directed to be collected by our military and naval officers, and applied to the use of our army and navy. Care was taken that the officers, soldiers, and sailors of our army and navy should be exempted from the operations of the order; and as the merchandise imported upon which the order operated must be consumed by Mexican citizens, the contributions exacted were, in effect, the seizures of the public revenues of Mexico, and the application of them to our own use. In directing this measure, the object was to compel the enemy to contribute, as far as practicable, towards the expenses of the war.

For the amount of contributions which have been levied in this form, I refer you to the accompanying reports of the Secretary of War and of the Secretary of the Navy, by which it appears that a sum exceeding half a million of dollars has been collected.

This amount would undoubtedly have been much larger, but for the difficulty of keeping open communications between the coast and the interior, so as to enable the owners of the merchandise imported to transport and vend it to the inhabitants of the country. It is confidently expected that this difficulty will, to a great extent, be soon removed by our increased forces which have been sent to the field.

Measures have recently been adopted by which the internal as well as the external revenues of Mexico, in all places in our military occupation, will be seized and appropriated to the use of our army and navy.

The policy of levying upon the enemy contributions in every form, consistently with the laws of nations, which it may be practicable for our military commanders to adopt, should, in my judgment, be rigidly enforced, and orders to this effect have accordingly been given. By such a policy, at the same time that our own treasury will be relieved from a heavy drain, the Mexican people will be made to feel the burdens of the war, and, consulting their own interests, may be induced the more readily to require their rulers to accede to a just peace.

After the adjournment of the last session of Congress, events transpired in the prosecution of the war which, in my judgment, required a greater number of troops in the field than had been anticipated. The strength of the army was accordingly increased by "accepting" the services of all the volunteer forces authorized by the act of the thirteenth of May, 1846, without putting a construction on that act, the correctness of which was seriously questioned. The volunteer forces now in the field, with those which had been "accepted," to "serve for twelve months," and were discharged at the end of their term of service, exhaust the fifty thousand men authorized by that act. Had it been clear that a proper construction of the act warranted it, the services of an additional number would have been called for and accepted; but doubts existing upon this point, the power was not exercised.

It is deemed important that Congress should, at an early period of their session, confer the authority to raise an additional regular force to serve during the war with Mexico, and to be discharged upon the conclusion and ratification of a treaty of peace. I invite the attention of Congress to the views presented by the Secretary of War in his report upon this subject.

I recommend, also, that authority be given by law to call for and accept the services of an additional number of volunteers, to be exercised at such time and to such extent as the emergencies of the service may require.

In prosecuting the war with Mexico, whilst the utmost care has been taken to avoid every just cause of complaint on the part of neutral nations, and none has been given, liberal privileges have been granted to their commerce in the ports of the enemy in our military occupation. .

The difficulty with the Brazilian Government, which at one time threatened to interrupt the friendly relations between the two countries, will, I trust, be speedily adjusted. I have received information that an Envoy Extraordinary and Minister Plenipotentiary to the United States will shortly be appointed by his Imperial Majesty; and it is hoped that he will come instructed and prepared to adjust all remaining differences between the two

Governments in a manner acceptable and honorable to both. In the meantime, I have every reason to believe that nothing will occur to interrupt our amicable relations with Brazil.

It has been my constant effort to maintain and cultivate the most intimate relations of friendship with all the independent Powers of South America; and this policy has been attended with the happiest results. It is true that the settlement and payment of many just claims of American citizens against these nations have been long delayed. The peculiar position in which they have been placed, and the desire on the part of my predecessors, as well as myself, to grant them the utmost indulgence, have hitherto prevented these claims from being urged in a manner demanded by strict justice. The time has arrived when they ought to be finally adjusted and liquidated, and efforts are now making for that purpose.

It is proper to inform you that the Government of Peru has in good faith paid the first two instalments of the indemnity of thirty thousand dollars each, and the greater portion of the interest due thereon, in execution of the convention between that Government and the United States, the ratifications of which were exchanged at Lima on the thirty-first of October, 1846. The Attorney General of the United States, early in August last, completed the adjudication of the claims under this convention, and made his report thereon, in pursuance of the act of the eighth of August, 1846. The sums to which the claimants are respectively entitled will be paid on demand at the treasury.

I invite the early attention of Congress to the present condition of our citizens in China. Under our treaty with that Power, American citizens are withdrawn from the jurisdiction, whether civil or criminal, of the Chinese Government, and placed under that of our public functionaries in that country. By these alone can our citizens be tried and punished for the commission of any crime; by these alone can questions be decided between them, involving the rights of persons and property; and by these alone can contracts be enforced, into which they may have entered with the citizens or subjects of foreign Powers. The merchant vessels of the United States lying in the waters of the five ports of China open to foreign commerce are under the exclusive jurisdiction of officers of their own Government. Until Congress shall establish competent tribunals to try and punish crimes, and to exercise jurisdiction in civil cases in China, American citizens there are subject to no law whatever. Crimes may be committed with impunity, and debts may be contracted without any means to enforce their payment. Inconveniences have already resulted from the omission of Congress to legislate upon the subject, and still greater are apprehended. The British authorities in China have already complained that this Government has not provided for the punishment of crimes, or the enforcement of contracts against American citizens in that country, whilst their Government has established tribunals by which an American citizen can recover debts due from British subjects.

Accustomed as the Chinese are to summary justice, they could not be made to comprehend why criminals who are citizens of the United States should escape with impunity, in violation of treaty obligations, whilst the punishment of a Chinese, who had committed any crime against an American citizen, would be rigorously exacted. Indeed, the consequences might be fatal to American citizens in China, should a flagrant crime be committed by any one of them upon a Chinese, and should trial and punishment not

follow, according to the requisitions of the treaty. This might disturb, if not destroy, our friendly relations with that empire, and cause an interruption of our valuable commerce.

Our treaties with the Sublime Porte, Tripoli, Tunis, Morocco, and Muscat, also require the legislation of Congress to carry them into execution, though the necessity for immediate action may not be so urgent as in regard to China.

The Secretary of State has submitted an estimate to defray the expense of opening diplomatic relations with the Papal States. The interesting political events now in progress in these States, as well as a just regard to our commercial interests, have, in my opinion, rendered such a measure highly expedient.

Estimates have also been submitted for the outfits and salaries of chargés d'affaires to the Republics of Bolivia, Guatemala, and Ecuador. The manifest importance of cultivating the most friendly relations with all the independent States upon this continent, has induced me to recommend appropriations necessary for the maintenance of these missions.

I recommend to Congress that an appropriation be made, to be paid to the Spanish Government for the purpose of distribution among the claimants in "the Amistad case." I entertain the conviction that this is due to Spain, under the treaty of the twentieth of October, 1795; and, moreover, that, from the earnest manner in which the claim continues to be urged, so long as it shall remain unsettled, it will be a source of irritation and discord between the two countries, which may prove highly prejudicial to the interests of the United States. Good policy, no less than a faithful compliance with our treaty obligations, requires that the inconsiderable appropriation demanded should be made.

TO MESSRS. TITUS AND WHITE.¹

DEPT. OF STATE,
10th Decr. 1847.

JAMES H. TITUS & JAMES W. WHITE, ESQRS.
New York.

GENTLEMEN :

I have received your letter of the 2d inst., referring to the proceedings of the "meeting held in the Broadway Tabernacle, for a demonstration of the earnest sympathy with which the American people regard the efforts of Pope Pius IX. and the Italian people for National Independence & Constitutional liberty," and transmitting a copy of a resolution therein adopted, that "the Address to His Holiness Pope Pius IX., duly authenticated, & signed by the President, Vice President, & Secretaries, with such other portion of the proceedings as may be necessary

¹ MSS. Department of State, Despatches to Consuls, X. 453.

fully to convey the sentiments with which we regard the enlightened & liberal policy of the Sovereign Pontiff, be forwarded to Rome, & presented to Pius IX., in such manner as shall be deemed proper by the Committee of Arrangements."

In reply to the suggestion made by you, in behalf of your Committee, that "the American Consul at Rome would be the proper medium of communication," I have to state, that in the absence of Nicholas Brown, Esqr., present Consul of the U. S. at Rome, the discharge of his official duties has been by him confided to Mr. Antoine Ardisson, a resident & understood to be a native of that Country. If it shall be the pleasure of your Committee to entrust to him the charge of these documents, it will afford me great pleasure to transmit them to him. I beg leave respectfully to suggest to the Committee that Major J. L. Smith, a distinguished officer of the Army of the U. S., will sail from New York on the 24th inst. with the intention of visiting Rome; & that he possesses high qualifications for the discharge of a trust so interesting & honorable. Whatsoever may, however, be the final determination of the Committee, in reference to the transmission of these Documents, they may be assured of the great satisfaction which it will afford me, in any manner, to contribute my aid to promote the object in view.

I am, Gentn., &c., &c.

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK

ON A TREATY WITH SWITZERLAND.¹

[December 20, 1847.]

TO THE SENATE OF THE UNITED STATES:

I herewith communicate to the Senate, for their consideration and advice with regard to its ratification, a convention between the United States and the Swiss Confederation signed in this city by their respective plenipotentiaries on the 18th day of May last, for the mutual abolition of the *droit d'aubaine* and of taxes on emigration.

JAMES K. POLK.

WASHINGTON, December 20, 1847.

¹ Senate Executive Journal, VII. 249.

TO MR. TRIST.¹

(No. 7.)

DEPARTMENT OF STATE,

WASHINGTON CITY, 21st December, 1847.

To NICHOLAS P. TRIST, ESQUIRE,
&c. &c. &c.

SIR:

Published letters and rumors from the army, at the first wholly discredited, have now assumed such a character that they cannot longer be disregarded;—to the effect, that an offer was made or proposed to be made, at Puebla, by General Scott and yourself, to General Santa Anna, to give him one million of dollars on his own private account, upon condition that he would conclude a peace with the United States.

Under these circumstances, I am directed by the President to instruct you to report to the Department whether there is any foundation for these allegations, and if there be, to furnish it with a precise and minute history of all the particulars. If any such secret understanding existed with Santa Anna, then you will inform the Department what acts, if any, were performed by either or both of the parties in pursuance of it, and what was the final result.

You will recognize it to be among your first and highest duties as Commissioner, authorized and instructed to negotiate and conclude a treaty of peace with Mexico, to keep your Government advised of every important incident connected with your mission. As you have not alluded in any of your despatches yet received at the Department to this attempt to purchase a peace from General Santa Anna, the President anxiously hopes that you have not been engaged in a transaction which would cover with merited disgrace all those who may have participated in it, and fix an indelible stain upon the character of our country. I shall await your answer with intense anxiety.

Yours very respectfully,

JAMES BUCHANAN.

¹ MSS. Department of State, Instructions, Mexico, XVI. 83.

TO MR. SIERRA.¹

DEPARTMENT OF STATE,
WASHINGTON, 24th December, 1847.

SIR: Important and pressing duties connected with the meeting of Congress have thus long delayed my answer to your note of the 27th ultimo. I have now, however, received the instructions of the President on the points which it presents, and hasten to communicate to you his decision.

After an interesting historical sketch of Yucatan since the termination of the Spanish dominion over it, you present two requests to the Government of the United States.

1. That the duties now imposed at Laguna, under the authority of the United States, on the vessels and productions of Yucatan, may be abolished.

2. That the naval forces of the United States may cease to occupy the Port of Laguna and the Island of Carmen.

I shall first advert to your second request.

The President feels the strongest disposition to grant to the Government and people of Yucatan every indulgence not inconsistent with the efficient exercise of our belligerent rights against Mexico. With every desire, however, to cultivate the most friendly feelings with her, he yet believes that the duty which he owes to his own country forbids him, for the present, to relinquish the possession of Laguna.

The position of Yucatan is peculiar. The President cannot recognize her as a sovereign, independent State. She must still be considered as a portion of the Mexican Republic, but yet as neutral in the existing war. Had she preserved her neutrality, from the commencement of hostilities until the present period, it is more than probable the naval forces of the United States never would have taken possession of Laguna. It is true that a contraband trade in arms and munitions of war was carried on between that port and the neighbouring province of Tabasco; but yet we might have borne this injury rather than have exercised the unquestionable right of arresting it by seizing any portion of a State which professed neutrality. But the Extraordinary Congress of Yucatan, by their decree of the 25th August, 1846, converted her neutrality into open war against the United States. After she had thus made herself our enemy, the port of Laguna, on

¹ MSS. Department of State, Notes to Mexican Legation, VI. 188; S. Ex. Doc. 40, 30 Cong. 1 Sess. 9.

the 21st December, 1846, was unconditionally surrendered to our naval forces. It is true that Yucatan has again become neutral; but it cannot be denied that she has ever since been distracted by civil dissensions, and that the enemies of neutrality and partisans of Mexico are in open rebellion against her Government. Under these circumstances the President cannot consent to surrender Laguna. That port, from its peculiar position, presents extraordinary facilities for carrying on an illicit trade in arms and munitions of war with Tabasco. From information on which the President fully relies, it would be impossible for the authorities of Yucatan, with the best possible intentions, to prevent this illicit traffic. To surrender Laguna would therefore be to furnish the means to Mexico of seriously annoying the forces of the United States and prolonging the existing war.

To your first request, that of not exacting duties at Laguna on the vessels and productions of other parts of Yucatan, the President is inclined to give a favorable response. Whilst he deems it necessary to hold this port for the purpose of preventing Mexico from receiving military supplies from it to be used to our injury, no sufficient cause perhaps exists for the continuance of these imposts. Commodore Perry will therefore be instructed by the Secretary of the Navy to abolish them, unless he may have reasons to the contrary not now within the President's knowledge. It is, however, to be distinctly understood that this instruction will be confined to the productions of Yucatan carried to Laguna in her own vessels, and is not to interfere with the inspection of such vessels and the execution of the revenue regulations by officers of the United States; nor to sanction any trade whatever between Laguna and any of the ports of Mexico. The privilege thus accorded will continue so long as Yucatan shall in good faith maintain her neutrality, but shall immediately cease the moment this is violated.

The claim of Mr. Cotaya, to which you allude, shall be referred to the Secretary of the Navy, after you have presented it in form, accompanied by the proofs in its support.

I avail myself of this occasion, Sir, to offer to you the assurance of my very distinguished consideration.

JAMES BUCHANAN.

To SEÑOR DON JUSTO SIERRA, &c. &c. &c.

TO GENERAL ALVEAR.¹

DEPARTMENT OF STATE,
WASHINGTON, December 27, 1847.

TO THE BRIGADIER GENERAL DON CARLOS DE ALVEAR,
&c. &c. &c.

Mr. Buchanan presents his compliments to General Alvear, and has the honor to inform him that when, in his note of the 24th instant, he designated the hour of one o'clock to receive him, he was not aware that a Patent Court was to meet at the Department at that hour. Mr. Buchanan will consequently be happy to see General Alvear either at twelve or at two o'clock, if he will do him the honor to call.

1848.

TO MR. WINTHROP.²

DEPARTMENT OF STATE,
WASHINGTON, January 5, 1848.

The Secretary of State, in obedience to the act to regulate and fix the compensation of clerks in the different offices, approved on the 20th of April, 1818, and to the 11th section of "An act legalizing and making appropriations for such necessary objects as have usually been included in the general appropriation bills without authority of law, and to fix and provide for certain incidental expenses of the departments and offices, and for other purposes," approved on the 26th of August, 1842, respectfully reports the accompanying statements, (A, B, C, and D,) containing, in addition to the information required by those acts, that called for by a resolution of the House of Representatives of the 13th of January, 1846.

The services of the clerks permanently employed under existing laws could not be dispensed with without injury to the public interest.

JAMES BUCHANAN.

HON. ROBERT C. WINTHROP,
Speaker of the House of Representatives.

¹ MSS. Department of State, Notes to Argentine Republic, VI. 22.

² H. Ex. Doc. 21, 30 Cong. 1 Sess. 1-2.

TO MR. SEVIER.¹

DEPARTMENT OF STATE,

WASHINGTON, 8th January, 1848.

SIR: I have the honor of enclosing to you Mr. Chew's report to me upon the claim of Mr. John Black, our late Consul at Mexico.

Mr. Black was an intelligent, prudent, and faithful officer, as the archives of the Department abundantly prove. From his knowledge of the Spanish language, his extensive acquaintance, and the respect with which he was regarded by the Mexicans, he was enabled to furnish the Government important information and render essential services to American citizens in Mexico. He performed all the diplomatic duties confided to him with entire satisfaction. It is my opinion, therefore, that he well deserves the salary of a Chargé d'Affaires during the period for which he has claimed it; and this I should have allowed to him had I possessed the power. I cannot, however, recommend the allowance to Mr. Black of an outfit. It would, in my opinion, furnish an improper precedent. Besides, the outfit was intended to cover the expense incurred by a diplomatic agent in reaching his post and establishing himself in a foreign country, and is not applicable to the case of Mr. Black, who was already in Mexico as a Consul of the United States.

Under the peculiar circumstances of the case, Mr. Black is, in my judgment, entitled to indemnity for the extraordinary expenses incurred by him on his return to the United States with the archives of the Legation. If the Committee should deem this proper, they might either allow him a quarter's salary, (\$1,125,) as an outfit, to cover these expenses, or direct that they should be audited and allowed by the proper accounting officer of the Treasury.

Should the Committee allow an outfit, it ought to be so guarded as not to be a precedent in future cases. This object might be accomplished by stating the allowance to be made as an indemnity for the extraordinary losses and expenses incurred by him, in consequence of having been suddenly ordered to leave Mexico, and compelled to carry with him the archives of the Legation over a dangerous route through the enemy's country from that city to Tampico.

¹ S. Ex. Doc. 12, 30 Cong. 1 Sess.; MS. Report Book, VI. 233.

The memorial of Mr. Black is herewith returned.

I have the honor, &c.,

JAMES BUCHANAN.

HON. A. H. SEVIER, Chairman
of the Committee of Foreign Relations, Senate.

TO MR. RUSH.¹

(No. 9.)

DEPARTMENT OF STATE,

WASHINGTON, 10th Jany., 1848.

RICHARD RUSH, ESQRE.,
&c., &c., &c.

SIR:

I have the honor to inform you that a bill of exchange has been received at this Department from the Envoy Extraordinary and Minister Plenipotentiary of Her Catholic Majesty, in satisfaction of the interest for one year (\$30,000,) due on the debt of Spain to the United States, for which a receipt (in quintuplicate) has been given to Mr. Calderon. To this receipt is added a memorandum of agreement between the Spanish Minister and the Secretary of State, to the effect that in consequence of the exhaustion of the coupons annexed to the inscriptions of the Convention, the same shall be considered as a full quittance for the said instalment, and supersede the usual order for the delivery of corresponding coupons. A copy of this receipt and memorandum are herewith transmitted.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

TO THE PRESIDENT.²

DEPARTMENT OF STATE,

WASHINGTON, 12th January, 1848.

The Secretary of State, to whom has been referred the resolutions of the House of Representatives of the 4th instant, has the honor to communicate to the President, in compliance with the

¹ MSS. Department of State, Instructions, France, XV. 59.

² H. Ex. Doc. 25, 30 Cong. 1 Sess. 26; H. Ex. Doc. 60, 30 Cong. 1 Sess. 795-796; MS. Report Book, VI. 237.

second resolution, all the orders and correspondence of the Government, in possession of this Department, in relation to the return of Gen. Paredes to Mexico.

JAMES BUCHANAN.

TO THE PRESIDENT OF THE UNITED STATES.

MESSAGE OF PRESIDENT POLK

ON A RESOLUTION OF THE HOUSE.¹

[January 12, 1848.]

TO THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES:

I have carefully considered the resolution of the House of Representatives of the 4th instant, requesting the President to communicate to that House "any instructions which may have been given to any of the officers of the Army or Navy of the United States, or other persons, in regard to the return of President General Lopez de Santa Anna, or any other Mexican, to the Republic of Mexico prior or subsequent to the order of the President or Secretary of War, issued in January, 1846, for the march of the Army from the Nueces River, across the 'stupendous deserts' which intervene to the Rio Grande; that the date of all such instructions, orders, and correspondence be set forth, together with the instructions and orders issued to Mr. Slidell at any time prior or subsequent to his departure for Mexico as minister plenipotentiary of the United States to that Republic;" and requesting the President also to "communicate all the orders and correspondence of the Government in relation to the return of General Paredes to Mexico."

I transmit herewith reports from the Secretary of State, the Secretary of War, and the Secretary of the Navy, with the documents accompanying the same, which contain all the information in the possession of the Executive which it is deemed compatible with the public interests to communicate.

For further information relating to the return of Santa Anna to Mexico, I refer you to my annual message of December 8, 1846. The facts and considerations stated in that message induced the order of the Secretary of the Navy to the commander of our squadron in the Gulf of Mexico, a copy of which is herewith communicated. This order was issued simultaneously with the order to blockade the coasts of Mexico, both bearing date the 13th of May, 1846, the day on which the existence of the war with Mexico was recognized by Congress. It was issued solely upon the views of policy presented in that message, and without any understanding on the subject, direct or indirect, with Santa Anna or any other person.

General Paredes evaded the vigilance of our combined forces by land and sea, and made his way back to Mexico, from the exile into which he had been driven, landing at Vera Cruz, after that city and the castle of San Juan de Ulloa were in our military occupation, as will appear from the accompanying reports and documents.

The resolution calls for the "instructions and orders issued to Mr.

¹ H. Ex. Doc. 25, 30 Cong. 1 Sess.

Slidell at any time prior or subsequent to his departure for Mexico as minister plenipotentiary of the United States to that Republic." The customary and usual reservation contained in calls of either House of Congress upon the Executive, for information relating to our intercourse with foreign nations, has been omitted in the resolution before me. The call of the House is unconditional. It is, that the information requested be communicated, and thereby be made public, whether in the opinion of the Executive, who is charged by the Constitution with the duty of conducting negotiations with foreign powers, such information, when disclosed, would be prejudicial to the public interest or not. It has been a subject of serious deliberation with me, whether I could, consistently with my constitutional duty, and my sense of the public interests involved and to be affected by it, violate an important principle, always heretofore held sacred by my predecessors, as I should do by a compliance with the request of the House. President Washington, in a message to the House of Representatives of the 30th of March, 1796, declined to comply with a request contained in a resolution of that body, to lay before them "a copy of the instructions to the minister of the United States who negotiated the treaty with the King of Great Britain, together with the correspondence and other documents relative to that treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed." In assigning his reasons for declining to comply with the call, he declared that, "The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion, a full disclosure of all the measures, demands, and eventual concessions, which may have been proposed or contemplated, would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate, the principle on which that body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign power, would be to establish a dangerous precedent."

In that case, the instructions and documents called for related to a treaty which had been concluded and ratified by the President and Senate, and the negotiations in relation to it had been terminated. There was an express reservation, too, "excepting" from the call all such papers as related to "any existing negotiations" which it might be improper to disclose. In that case, President Washington deemed it to be a violation of an important principle, the establishment of a "dangerous precedent," and prejudicial to the public interests, to comply with the call of the House.

Without deeming it to be necessary, on the present occasion, to examine or decide upon the other reasons assigned by him for his refusal to communicate the information requested by the House, the one which is herein recited, is, in my judgment, conclusive in the case under consideration.

Indeed, the objections to complying with the request of the House, contained in the resolution before me, are much stronger than those which existed in the case of the resolution in 1796. This resolution calls for the "instructions and orders" to the minister of the United States to Mexico, which relate to negotiations which have not been terminated, and which may be

resumed. The information called for respects negotiations which the United States offered to open with Mexico immediately preceding the commencement of the existing war. The instructions given to the minister of the United States relate to the differences between the two countries, out of which the war grew, and the terms of adjustment which we were prepared to offer to Mexico, in our anxiety to prevent the war. These differences still remain unsettled, and to comply with the call of the House would be to make public through that channel, and to communicate to Mexico, now a public enemy, engaged in war, information which could not fail to produce serious embarrassment in any future negotiation between the two countries.

I have, heretofore, communicated to Congress all the correspondence of the minister of the United States to Mexico which, in the existing state of our relations with that Republic, can, in my judgment, be at this time communicated, without serious injury to the public interest.

Entertaining this conviction, and with a sincere desire to furnish any information which may be in possession of the executive department, and which either House of Congress may, at any time, request, I regard it to be my constitutional right and solemn duty, under the circumstances of this case, to decline a compliance with the request of the House contained in their resolution.

JAMES K. POLK.

WASHINGTON, January 12, 1848.

TO MR. STAPLES.¹

DEPARTMENT OF STATE,

WASHINGTON 15th Jany 1848.

WILLIAM J. STAPLES ESQRE.

U. S. Consul, Havre.

SIR,

I have received a letter from the Honble. Richard Brodhead, referring to a complaint of Mr. Goundie, U. S. Consul at Basle, that the Consuls in Paris and Havre are permitted to authenticate invoices from Switzerland; and urging that the Department should direct the said Consuls "not to authenticate invoices from other Countries."

Such an instruction, I am informed by the Treasury Department, would be too general. Invoices of goods, the productions of other Countries, bona fide purchased in France, for exportation to the U. States, may properly be certified by our Consuls in France. But in all cases where it is manifest on the face of the invoice or is known that the goods came direct from a

¹ MSS. Department of State, Despatches to Consuls, XII. 357.

Country out of France, and were destined for exportation therefrom to the U. States, you will refuse to grant your certificate, referring the parties to the Consul of the United States at the nearest post to the place of produce or manufacture of the goods.

I am, Sir, &c.

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK ON A TREATY WITH MECKLENBURG-SCHWERIN.¹

[January 21, 1848.]

TO THE SENATE OF THE UNITED STATES:

I herewith communicate to the Senate, for its consideration, a declaration of the Government of the Grand Duchy of Mecklenburg-Schwerin, bearing date at the city of Schwerin, on the 9th December, 1847, acceding substantially to the stipulations of our treaty of commerce and navigation with Hanover of the 10th June, 1846.

Under the twelfth article of this treaty "the United States agree to extend all the advantages and privileges contained in the stipulations of the present treaty to one or more of the other States of the Germanic Confederation which may wish to accede to them, by means of an official exchange of declarations: Provided, That such State or States shall confer similar favors upon the said United States to those conferred by the Kingdom of Hanover, and observe and be subject to the same conditions, stipulations, and obligations."

This declaration of the Grand Duchy of Mecklenburg-Schwerin is submitted to the Senate, because in its eighth and eleventh articles it is not the same in terms with the corresponding articles of our treaty with Hanover. The variations, however, are deemed unimportant, whilst the admission of our "paddy," or rice in the husk, into Mecklenburg-Schwerin free of import duty is an important concession not contained in the Hanoverian treaty. Others might be mentioned which will appear upon inspection. Still, as the stipulations in the two articles just mentioned in the declaration are not the same as those contained in the corresponding articles of our treaty with Hanover, I deem it proper to submit this declaration to the Senate for their consideration before issuing a proclamation to give it effect.

I also communicate a despatch from the special agent on the part of the United States, which accompanied the declaration.

JAMES K. POLK.

WASHINGTON, January 21, 1848.

¹ Senate Executive Journal, VII. 291.

TO THE VICE-PRESIDENT.¹

DEPARTMENT OF STATE,

WASHINGTON, January 26, 1848.

SIR: Agreeably to the act of March 2, 1799, I have the honor to communicate an abstract of the returns made to this department by the collectors of customs, pursuant to the act of May 28, 1796, for the relief and protection of American seamen; showing the number of seamen registered in each port of entry of the United States during the year ending the 30th of September, 1847.

I am, sir, very respectfully, your obedient servant,
JAMES BUCHANAN.

TO THE VICE PRESIDENT OF THE UNITED STATES
AND PRESIDENT OF THE SENATE.

TO MR. OSMA.²

DEPARTMENT OF STATE,

WASHINGTON, 1st February, 1848.

TO SEÑOR DON JOAQUIN JOSÉ DE OSMA,
&c. &c. &c.

SIR:

I have received your note of the 17th ult., and in reply have the honor to inform you, that in addressing to the Minister for Foreign Affairs of Peru the protest to which you refer, under date the 23d May, 1846, Mr. Jewett acted without instructions from this Department, and the President has not sanctioned that proceeding in any manner whatever. On the contrary, he cheerfully admits that the authority of the Government of Peru is supreme within the territories of that Republic. This is essential to its independence, which we were among the first of the nations to acknowledge and which we hope it may ever maintain.

Citizens of the United States whilst residing in Peru are subject to its laws and the treaties existing between the parties, and are amenable to its Courts of Justice for any crimes or offences which they may commit. It is the province of the Judiciary to

¹ S. Ex. Doc. 16, 30 Cong. 1 Sess. 1.

² MSS. Department of State, Notes to Peru, I. 8.

construe and administer the laws; and if this be done promptly and impartially towards American citizens and with a just regard to their rights, they have no cause of complaint. In such cases, they have no right to appeal for redress to the diplomatic representative of their country, nor ought he to regard their complaints. It is only where justice has been denied or unreasonably delayed by the Courts of Justice of Foreign Countries, where these are used as instruments to oppress American citizens or deprive them of their just rights, that they are warranted in appealing to their Government to interpose. No such circumstances exist, so far as I understand the question, in the case of Doctor Norris, which was the subject of Mr. Jewett's protest.

Trusting that your government will perceive from this statement that its views are reciprocated, I avail myself, with pleasure, of the occasion to offer you, Sir, renewed assurances of my very distinguished consideration.

JAMES BUCHANAN.

TO THE PRESIDENT.¹

DEPARTMENT OF STATE,

WASHINGTON, 1st February, 1848.

SIR: The Secretary of State, to whom was referred the resolution of the Senate of the 13th ult., requesting the President to communicate, "for the information of the Senate, the

¹ MSS. Department of State, Report Book, VI. 239; S. Ex. Doc. 20, 30 Cong. 1 Sess. 1-2. This report was transmitted by President Polk to the Senate, Feb. 2, 1848, with the following message:

To THE SENATE OF THE UNITED STATES:

In answer to the resolution of the Senate of the 13th of January, 1848, calling for information upon the subject of the negotiation between the Commissioner of the United States and the Commissioners of Mexico, during the suspension of hostilities after the battles of Contreras and Churubusco, I transmit a report from the Secretary of State, and the documents which accompany it.

I deem it proper to add, that the invitation from the Commissioner of the United States to the Mexican Commissioners, to submit the proposition of boundary, referred to in his despatch No. 15, of the 4th of September, 1847, herewith communicated, was unauthorized by me, and was promptly disapproved, and this disapproval was communicated to the Commissioner of the United States with the least possible delay.

JAMES K. POLK.

WASHINGTON, February 2, 1848.

correspondence between the Commissioner of the United States and the Commissioners appointed by the Government of Mexico to negotiate with him during the suspension of hostilities after the battles of Contreras and Churubusco, and any other information which may enable the Senate to understand the terms, progress, and issue of that negotiation, so far as he may deem the same not incompatible with the public interest," has the honor to lay before the President the papers mentioned in the subjoined list, which embrace the whole correspondence between the American and Mexican Commissioners "during the suspension of hostilities after the battles of Contreras and Churubusco;" and also extracts from a despatch of the American Commissioner to this Department, dated 4th September, 1847, referring to a proposition which he had invited from the Mexican Government, to establish a boundary between the two republics.

Respectfully submitted,

JAMES BUCHANAN.

TO THE PRESIDENT OF THE UNITED STATES.

TO THE PRESIDENT.¹

DEPARTMENT OF STATE,

WASHINGTON, 4th February, 1848.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 31st ultimo, requesting the President, (if in his opinion not incompatible with the public interest,) to lay before that body "the documents and correspondence, not already published, relating to the final adjustment of the difficulties between Great Britain and the United States concerning rough rice or paddy," has the honor respectfully to report to the President the accompanying copies and extracts from papers on file in this Department, which embrace the documents and correspondence called for by that resolution.

JAMES BUCHANAN.

TO THE PRESIDENT OF THE UNITED STATES.

¹ MSS. Department of State, Report Book, VI. 240; H. Ex. Doc. 38, 30 Cong. 1 Sess. 1-2. This report was transmitted by President Polk to the House of Representatives, Feb. 8, 1848.

TO THE PRESIDENT.¹

DEPARTMENT OF STATE,

WASHINGTON, 9th February, 1848.

The Secretary of State, to whom was referred the resolution of the House of Representatives requesting the President to communicate to the House "whether any communication has been received from Mexico containing propositions from the Mexican authorities or Commissioners for a treaty of peace," &c., respectfully reports that no such communication has been received. Nothing of such a character has ever been received at this Department, except the "*counter projet*" for a treaty of peace presented by the Mexican Commissioners to the Commissioner of the United States on the 6th September last, and which was communicated by you to the Senate with your message of the 3d February instant.² A copy of this message with the accompanying documents is herewith furnished.

JAMES BUCHANAN.

TO THE PRESIDENT OF THE UNITED STATES.

TO GENERAL ALVEAR.³

DEPARTMENT OF STATE,

WASHINGTON, February 10, 1848.

TO THE BRIGADIER GENERAL DON CARLOS DE ALVEAR,
&c. &c. &c.

The Undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note under date the 12th ult: from General de Alvear, Minister Plenipotentiary and Extraordinary of the Argentine Confederation, with the accompanying papers, complaining of the captain of the American Barque "*Expeleta*," for carrying off in that vessel on the 4th of April last, from the port of Salado, a deserter named Charles Esteel who was the 2nd Sergeant of the Company of Infantry of Chascomun, in the service of the Argentine Confederation.

¹ MSS. Department of State, Report Book, VI. 241; H. Ex. Doc. 40, 30 Cong. 1 Sess. 2. This report was transmitted by President Polk to the House, Feb. 10, 1848.

² The message was dated Feb. 2. See note to Mr. Buchanan's report to the President, Feb. 1, 1848, supra.

³ MSS. Department of State, Notes to Argentine Republic, VI. 23.

General de Alvear represents that his Government is entirely confident that the Government of the United States, when apprized of the criminal conduct referred to of the Captain of the "Expeleta," will cause him to be punished as he deserves.

The Undersigned has laid General Alvear's note before the President, who has directed him to state in reply, that as the documents communicated do not show that Esteel was carried off in the "Expeleta" with the knowledge and consent of the master, it is possible this may have been done through accident and without any criminal design. If the act complained of were committed knowingly and wilfully, it certainly was in a high degree ungrateful and reprehensible. I regret, however, to inform you that the Congress of the United States have never passed any law under which this act of the Captain of the "Expeleta" could be punished. Under these circumstances, although the President feels the strongest disposition to gratify the wishes of the Argentine Government, he does not upon the present occasion possess the power.

The Undersigned avails himself of this occasion to offer to General de Alvear renewed assurances of his very distinguished consideration.

JAMES BUCHANAN.

TO MR. CAUSTEN.¹

DEPARTMENT OF STATE,
WASHINGTON, 10th February, 1848.

JAMES H. CAUSTEN, Esq.,
Washington.

SIR:

I have to acknowledge the receipt of your letter of yesterday, requesting a memorandum of such part of the unratified and unpublished Convention between the United States and the Mexican Republic of the 20th November, 1843, as will enable you to ascertain the rules prescribed by that Convention for the decision of claims, and also requesting to be informed whether a Joint Resolution now pending in the Senate, a copy of which you transmit, meets the approbation of this Department. In reply I have to express my regret that I do not feel myself at

¹ MSS. Department of State, 36 Domestic Letters, 274.

liberty to furnish you a copy of any part of the unratified and unpublished Convention to which you refer.

As the Joint Resolution has originated in the Senate, any Senator could easily refer to this Convention, which will be found among their Executive proceedings; and if I were consulted, I would suggest the expediency of inserting the principles and rules of decision recognized by it in the body of the resolution, instead of adopting them by reference. They are to be found in the first and fifth articles.

I am, &c.,

JAMES BUCHANAN.

TO MR. MANGUM.¹

DEPARTMENT OF STATE,
WASHINGTON, 10th February, 1848.

HON. W. P. MANGUM,

of the Committee on Foreign Affairs, Senate.

SIR:

I have received your note of the 1st instant, with the memorial and accompanying documents of Messrs. Graham and George Lee Brent, signed by the latter. In reply I have the honor to state, that the principal facts set forth in the memorial are confirmed by information in the possession of the Department.

The reason why the accounts of these gentlemen have not been settled and paid by the Department is that Mr. William Brent, Jun., the late Chargé d'Affaires of the United States at Buenos Ayres, was not authorized or instructed to offer the mediation of the United States for the purpose of adjusting the differences between the Argentine Confederation and Paraguay. It is not doubted, however, that this mediation was offered by Mr. Brent in good faith and under a sense of duty; and at his request, Messrs. Graham and George Lee Brent undertook and performed the long, difficult, and perilous journey from Buenos Ayres to Paraguay as Special Agents and Bearers of Despatches. It would, therefore, seem equitable that these gentlemen should receive a reasonable compensation for their services. It is proper, also, to remark that they have evinced much discretion and intelligence in executing the trust confided to them, and that Mr.

¹ MSS. Department of State, 36 Domestic Letters, 373.

Graham has addressed a report to the Department, replete with valuable information upon the condition of Paraguay.

The customary compensation of a special agent is \$8 per day, and that of a Bearer of Despatches is \$6 per day, with necessary travelling expenses in either case.

Should the Committee desire more particular information relating to the mediation offered by Mr. Brent, and the purpose for which Messrs. Graham and William L. Brent were employed as bearers of Despatches, the papers in the possession of the Department shall be cheerfully placed at their disposal.

The papers which accompanied your letter are herewith returned.

I have the honor to be, Sir,

Very respectfully, Your Obedt. Servt.,

JAMES BUCHANAN.

TO MR. MASON.¹

DEPARTMENT OF STATE,

WASHINGTON, Febry. 10th, 1848.

HON: JOHN Y. MASON,
Secretary of the Navy.

SIR,

Your communication of the 7th instant, enclosing a copy, with its accompanying papers, of Commodore Perry's despatch No. 98, and requesting to be informed "whether those Gentlemen who had received their Exequaturs from the proper authority, as Consuls at Vera Cruz or other Mexican ports, which may be held by our Naval forces, are to be regarded as invested with their Official character respectively, while such places may remain in our actual military possession," has been received.

In reply I have to inform you that, under the liberal policy adopted by our Government in its prosecution of the existing war, it has endeavored to occasion no embarrassment to neutral nations, which could possibly be avoided without endangering the success of its Military operations. Foreign Consuls, therefore, have been permitted to remain in the Mexican ports which are held by our Arms, and to exercise in such places their usual Consular functions, without any other interruption than that

¹ MSS. Department of State, Despatches to Consuls, XIII. 57.

which necessarily arises from a state of War; and subject to such regulations as may be thus made necessary, they may for the present, in my opinion, be still permitted to act in their Official characters respectively, although residing in those portions of Mexico which are actually in the Military possession of the United States.

I am, Sir, very respectfully &c.

JAMES BUCHANAN.

TO MR. PARKER.¹

No. 4.

DEPARTMENT OF STATE,

WASHINGTON, 10th Feb. 1848.

PETER PARKER, Esq.

&c. &c. &c.

SIR:

Your despatches to No. 37, inclusive, have been duly received. In pursuance of the request contained in that bearing date the 27th of October last, I have attentively perused your letter of the 14th of the same month, addressed to the Messrs. Wetmore & Co., in reply to their application for "information whether an American vessel, having paid tonnage dues at this port, (Canton,) and proceeding to Shanghai, stopping at Hong-Kong on her way thither to discharge or receive cargo, would be liable to port charges at Shanghai: and whether merchandise imported here from America, reshipped to Shanghai in that vessel, accompanied by the proper duty-chop, would be subjected again to import duty at Shanghai."

The first question is, whether, under the sixth article of our treaty with China, an American vessel which has paid tonnage duty at Canton is liable to a second tonnage duty upon her arrival at Shanghai, from the fact that, on her passage between the former and the latter port, she may have stopped at Hong-Kong for the purpose of discharging or receiving cargo. This question is not free from doubt under the language of the treaty, if the vessel has merely unladen a part of her cargo at Hong-Kong. The sixth article does not, in express terms, require that, in order to be relieved from a second tonnage duty, she should be compelled to sail directly from one of the five ports to another;

¹ MSS. Department of State, Instructions, China, I. 52.

and it would not seem equitable that the mere fact of unlading a part of her original cargo, on the passage, at Hong-Kong, provided that she proceeds with the remainder to Shanghai, should subject her to a second tonnage duty. The right to exact this duty would be much clearer, if, in addition to unlading a portion of her original cargo at Hong-Kong, she should there take on board other commodities, and proceed thence to Shanghai. But even in this case, I should hope that the Chinese Government would not exact a second tonnage duty. Whatever may be the true construction of the treaty, it is important to the interests of our commerce that this should not be done. Hong-Kong until recently was a Chinese possession, and is still intimately connected with Canton and Shanghai. It would conduce greatly to the convenience of American vessels, in passing from one of these ports to the other, to be permitted to stop at Hong-Kong on the voyage, for the purpose of putting out and taking in cargo. This would promote the trade with China, and thus increase her revenues. If China should thus be deprived of the import duties on a part of the original cargo of an American vessel, she would receive an ample equivalent in the duties to be levied at Shanghai on the merchandise taken on board at Hong-Kong.

You are therefore instructed to use your best exertions with the Chinese Government to obtain an exemption from a second tonnage duty, upon American vessels, under such circumstances. Should these, however, prove unavailing, it would be better to submit to the necessity rather than, on a question so very doubtful, to make a serious issue with the Chinese authorities.

In regard to the second question, I do not feel at all disposed to dissent from the view you have taken of it. On the contrary, the construction which you have given to the portion cited of the twentieth article of our treaty with China appears to be warranted by a strict and liberal interpretation of the text.

I am, Sir, respectfully,

Your obedient servant,

JAMES BUCHANAN.

MESSAGE OF PRESIDENT POLK
ON A TREATY WITH PERU.¹

[February 14, 1848.]

TO THE SENATE OF THE UNITED STATES:

I transmit, for the consideration of the Senate with a view to ratification, a treaty of peace, friendship, commerce, and navigation between the United States and the Republic of Peru, concluded and signed in this city on the 9th instant by the Secretary of State and the minister plenipotentiary of Peru, in behalf of their respective Governments. I also transmit a copy of the correspondence between them which led to the treaty.

JAMES K. POLK.

WASHINGTON, 14th February, 1848.

MESSAGE OF PRESIDENT POLK
ON THE TREATY OF PEACE WITH MEXICO.²

[February 22, 1848.]

TO THE SENATE OF THE UNITED STATES:

I lay before the Senate, for their consideration and advice as to its ratification, a treaty of peace, friendship, limits, and settlement, signed at the city of Guadalupe Hidalgo, on the second day of February, 1848, by N. P. Trist on the part of the United States, and by plenipotentiaries appointed for that purpose on the part of the Mexican government.

I deem it to be my duty to state that the recall of Mr. Trist as commissioner of the United States, of which Congress was informed in my annual message, was dictated by a belief that his continued presence with the army could be productive of no good, but might do much harm by encouraging the delusive hopes and false impressions of the Mexicans; and that his recall would satisfy Mexico that the United States had no terms of peace more favorable to offer. Directions were given that any propositions for peace, which Mexico might make, should be received and transmitted by the commanding general of our forces, to the United States.

It was not expected that Mr. Trist would remain in Mexico, or continue in the exercise of the functions of the office of commissioner, after he received his letter of recall. He has, however, done so, and the plenipotentiaries of the government of Mexico, with a knowledge of the fact, have concluded with him this treaty. I have examined it with a full sense of the extraneous circumstances attending its conclusion and signature, which might be objected to; but, conforming, as it does substantially on the main questions of boundary and indemnity, to the terms which our commissioner, when he left the United States in April last, was authorized to offer, and animated, as I am, by the spirit which has governed all my official conduct towards Mexico, I have felt it to be my duty to submit it to the Senate for their consideration, with a view to its ratification.

¹ Senate Executive Journal, VII. 298.

² S. Ex. Doc. 52, 30 Cong. 1 Sess. 3.

To the tenth article of the treaty there are serious objections, and no instructions given to Mr. Trist contemplated or authorized its insertion. The public lands within the limits of Texas belong to that State, and this government has no power to dispose of them, or to change the conditions of grants already made. All valid titles to land within the other territories ceded to the United States will remain unaffected by the change of sovereignty; and I therefore submit that this article should not be ratified as a part of the treaty.

There may be reason to apprehend that the ratification of the "additional and secret article" might unreasonably delay and embarrass the final action on the treaty by Mexico. I therefore submit whether that article should not be rejected by the Senate.

If the treaty shall be ratified as proposed to be amended, the cessions of territory made by it to the United States, as indemnity, the provision for the satisfaction of the claims of our injured citizens, and the permanent establishment of the boundary of one of the States of the Union, are objects gained of great national importance; while the magnanimous forbearance exhibited towards Mexico, it is hoped may insure a lasting peace and good neighborhood between the two countries.

I communicate herewith a copy of the instructions given to *Mr. Slidell* in November, 1845, as envoy extraordinary and minister plenipotentiary to Mexico; a copy of the instructions given to *Mr. Trist* in April last, and such of the correspondence of the latter with the Department of State, not heretofore communicated to Congress, as will enable the Senate to understand the action which has been had with a view to the adjustment of our difficulties with Mexico.

JAMES K. POLK.

WASHINGTON, February 22, 1848.

TO MR. WALKER.¹

DEPARTMENT OF STATE,
WASHINGTON CITY February 23d 1848.

SIR: On the 15th April last, upon my request, you furnished Nicholas P. Trist, Esquire, the late Commissioner to Mexico, an authority to draw upon you for three millions of dollars, in pursuance of the provisions of the Act of Congress of 3d March, 1847, entitled "An Act making further appropriation to bring the existing war with Mexico to a speedy & honorable conclusion." As Mr. Trist has been recalled from his mission & consequently his power has ceased to draw any such draft, I respectfully request that you would confer a similar authority upon Major General William O. Butler to draw upon

¹ S. Ex. Doc. 52, 30 Cong. 1 Sess. 108; 36 MS. Domestic Letters, 479.

the Treasury of the United States for the sum of Three millions of dollars, in pursuance of the provisions of said Act.

Yours, very respectfully,

JAMES BUCHANAN.

HON: ROBERT J. WALKER
Secretary of the Treasury.

TO MADAME DE YTURBIDE.¹

[February 24, 1848.]

The Secretary of State presents his most respectful compliments to Madame de Yturbide; and in answer to her request that he might "give her a *written permission* for herself and family to return to Mexico," has the honor to state, that he has submitted her note to the President, who has reluctantly arrived at the conclusion, that it would, under existing circumstances, be inexpedient to grant this permission.

WASHINGTON, 24th February, 1848.

TO M. PAGEOT.²

Circular.

DEPARTMENT OF STATE,

WASHINGTON, 25th Feby., 1848.

SIR:

In compliance with the request of the Committee of Arrangement of the House of Representatives, "appointed for the purpose of directing the funeral obsequies of the late John Quincy Adams, member of the House from Massachusetts, and formerly President of the United States, and one of our most illustrious citizens," I have the honor to invite the members of the Diplomatic Corps now in this city to attend his funeral to-morrow at 12 o'clock, noon, and to inform them that seats will be provided for them in the Hall of the House.

Yours very respectfully,

JAMES BUCHANAN.

MR. ALPHONSE PAGEOT,
&c., &c., &c.

¹ MSS. Department of State, 36 Domestic Letters, 380.

² MSS. Department of State, Notes to French Legation, VI. 116.

TO THE PRESIDENT.¹

DEPARTMENT OF STATE,

WASHINGTON, February 29, 1848.

SIR:

I herewith transmit to you the originals of all the despatches which have ever been received at the department from Mr. Trist, since he was appointed commissioner to Mexico. They were too voluminous to have copies made in any reasonable time. I also transmit you copies of all the despatches which I ever transmitted to Mr. Trist since his appointment, except of those which were submitted by you to the Senate with the treaty, and which have already been printed in confidence. I ought, perhaps, to make another exception of a letter of mine to him, dated on the 21st December last, making an inquiry of him which has not yet been answered, which, until it shall be answered, ought not, in justice to him, to be communicated. That inquiry, as you know, has no relation to the treaty.

Yours, very respectfully,

JAMES BUCHANAN.

TO THE PRESIDENT OF THE UNITED STATES.

MESSAGE OF PRESIDENT POLK
ON THE NEGOTIATION OF PEACE WITH MEXICO.²

(Confidential.)

[February 29, 1848.]

TO THE SENATE OF THE UNITED STATES:

In compliance with the resolution of the Senate, passed in "executive session" on yesterday, requesting the President "to communicate to the Senate *in confidence* the entire correspondence between *Mr. Trist* and the Mexican commissioners, from the time of his arrival in Mexico until the time of the negotiation of the treaty submitted to the Senate; and also the entire correspondence between *Mr. Trist* and the Secretary of State, in relation to his negotiations with the Mexican commissioners; also, all the correspondence between *General Scott* and the government, and between *General Scott* and *Mr. Trist*, since the arrival of *Mr. Trist* in Mexico, which may be in the possession of the government," I transmit herewith the correspondence called for. These documents are very voluminous, and presuming that the Senate desired them in reference to early action on the treaty with Mexico, submitted to the consideration of that body by my message of the 22d instant, the originals of several of the letters of *Mr. Trist* are herewith

¹ S. Ex. Doc. 52, 30 Cong. 1 Sess. 111-112.² S. Ex. Doc. 52, 30 Cong. 1 Sess. 110.

communicated, in order to save the time which would necessarily be required to make copies of them. These original letters it is requested may be returned when the Senate shall have no further use for them.

The letters of Mr. Trist to the Secretary of State, and especially such of them as bear date subsequent to the receipt by him of his letter of recall as commissioner, it will be perceived, contain much matter that is impertinent, irrelevant, and highly exceptionable. Four of these letters, bearing date respectively the 29th December, 1847, January 12, January 22, and January 25, 1848, have been received since the treaty was submitted to the Senate. In the latter, it is stated that the Mexican commissioners who signed the treaty derived "their full powers bearing date on the 30th December, 1847, from the President *ad interim* of the republic, (General Anaya,) constitutionally elected to that office in November by the sovereign constituent Congress" of Mexico. It is impossible that I can approve the conduct of *Mr. Trist* in disobeying the positive orders of his government, contained in the letter recalling him, or do otherwise than condemn much of the matter with which he has chosen to encumber his voluminous correspondence. Though all of his acts, since his recall, might have been disavowed by his government, yet *Mexico* can take no such exception. The treaty which the Mexican commissioners have negotiated with him, with a full knowledge on their part that he had been recalled from his mission, is binding on Mexico.

Looking at the actual condition of Mexico, and believing that, if the present treaty be rejected, the war will probably be continued, at great expense of life and treasure, for an indefinite period, and considering that the terms, with the exceptions mentioned in my message of the 22d instant, conform substantially, so far as relates to the main question of boundary, to those authorized by me in April last, I considered it to be my solemn duty to the country, uninfluenced by the exceptionable conduct of Mr. Trist, to submit the treaty to the Senate, with a recommendation that it be ratified with the modifications suggested.

Nothing contained in the letters received from Mr. Trist since it was submitted to the Senate has changed my opinion on the subject.

The resolution also calls for "all the correspondence between General Scott and the government since the arrival of Mr. Trist in Mexico." A portion of that correspondence, relating to Mr. Trist and his mission, accompanies this communication. The remainder of the "correspondence between General Scott and the government" relates mainly, if not exclusively, to military operations. A part of it was communicated to Congress with my annual message, and the whole of it will be sent to the Senate if it shall be desired by that body.

As coming within the purview of the resolution, I also communicate copies of the letters of the Secretary of War to Major General Butler, in reference to Mr. Trist's remaining at the headquarters of the army in the assumed exercise of his powers of commissioner.

JAMES K. POLK.

WASHINGTON, February 29, 1848.

TO THE PRESIDENT.¹

DEPARTMENT OF STATE,

WASHINGTON, 1st March, 1848.

SIR: The Secretary of State, to whom was referred the Resolution of the Senate of the 3d of January last, requesting the President "to communicate to the Senate the correspondence of Mr. Wise, late Minister of the U. S. at the Court of Brazil, embracing a letter of Mr. Hamilton, Her Britannic Majesty's Minister at the same Court, to Mr. Wise, dated the 24th March, 1846, with a note from the Earl of Aberdeen of the 4th December, 1845, a letter from Mr. Wise to Mr. Hamilton, dated the 27th March, 1846, a letter from Mr. Wise to Mr. Hamilton dated 31st July, 1846, and the papers accompanying the same—all relating to the subject of the slave trade—provided that the same may be done, in his opinion, without detriment to the public service,"—has the honor to lay before the President a copy of the documents called for by the Resolution.

Respectfully submitted,

JAMES BUCHANAN.

TO THE PRESIDENT OF THE UNITED STATES.

¹ This report was formally transmitted by President Polk to the Senate, March 2, 1848; S. Ex. Doc. 28, 30 Cong. 1 Sess. 1. The report is recorded in MS. Report Book, VI. 242.

